



*Washington, Tuesday, June 28, 1938*

## ***The President***

## **EXECUTIVE ORDER**

## AMENDMENT OF CIVIL SERVICE RULES

By virtue of and pursuant to the authority vested in me by the Constitution, by section 1753 of the Revised Statutes (U. S. C., title 5, sec. 631), by the Civil Service Act of January 16, 1883 (22 Stat. 403), and as President of the United States, the Civil Service Rules are hereby amended, effective February 1, 1939, to read as follows:

## RULE I. POLITICS AND RELIGION

- 1. No interference with elections.*—No person in the executive civil service shall use his official authority or influence for the purpose of interfering with an election or affecting the results thereof. Persons who by the provisions of these rules are in the competitive classified service, while retaining the right to vote as they please and to express privately their opinions on all political subjects, shall take no active part in political management or in political campaigns.
  - 2. No disclosure or discriminations.*—No question in any form of application or in any examination shall be so framed as to elicit information concerning the political or religious opinions or affiliations of any applicant, nor shall any inquiry be made concerning such opinions or affiliations, and all disclosures thereof shall be discountenanced. No discrimination shall be exercised, threatened, or promised by any person in the executive civil service against or in favor of an applicant, eligible, or employee in the classified service because of his political or religious opinions or affiliations.

- 3. Recommendations not considered.—* No recommendation of an applicant, eligible, or employee in the classified service involving disclosure of his political or religious opinions or affiliations shall be considered or filed by the Civil Service Commission, hereinafter called the Commission, or by any officer concerned in making appointments or promotions.

## RULE II. CLASSIFICATION OF THE SERVICE

- 1. Extent of the classified service.*—The classified service shall include all persons who have heretofore or may hereafter be given a competitive status in the classified civil service, with or without competitive examination, by legislative enactment, or under the civil service rules promulgated by the President, or by executive orders covering groups of employees with their positions into the competitive classified service, or authorizing the appointment of individuals to positions within such service. It shall include all positions now existing or hereafter created by legislative or executive action, of whatever function or designation, whether compensated by a fixed salary or otherwise, unless excepted from classification by specific affirmative legislative or executive action. No right of classification shall accrue to persons whose appointment or assignment to classified duties is in violation of the civil service rules.
  - 2. Examination required.*—No person shall be appointed, employed, promoted, or transferred in the classified service, or perform the duties of any position therein, until he passes the examination prescribed by the Commission in his case, unless especially exempted.
  - 3. Appointment without examination.*—(a) Schedules A and B of the civil service rules are continued as a part of the said rules as amended by this order, and positions named in such Schedules are excepted from the classified service.  
(b) Appointments to the excepted positions named in Schedule A may be made without examination or upon non-competitive examination.  
(c) Appointments to the excepted positions named in Schedule B may be made upon such noncompetitive examination as the Commission shall prescribe.  
(d) The proper appointing officer may fill any position named in Schedule A or Schedule B, or any other excepted position, as classified positions are filled, in which case the person so appointed shall be eligible for transfer, reinstatement, or promotion to positions in the classified service subject to the provisions of these

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Published by the Division of the Federal Register, The National Archives, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. L. 500), under regulations prescribed by the Administrative Committee, with the approval of the President.

The Administrative Committee consists of the Archivist or Acting Archivist, an officer of the Department of Justice designated by the Attorney General, and the Public Printer or Acting Public Printer.

The daily issue of the FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1 per month or \$10 per year; single copies 10 cents each; payable in advance. Remit by money order payable to Superintendent of Documents, Government Printing Office, Washington, D. C.

Correspondence concerning the publication of the FEDERAL REGISTER should be addressed to the Director, Division of the Federal Register, The National Archives, Washington, D. C.

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Federal Trade Commission—Con.	Page	
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United Buyers Corp., et al. 1541		competitive tests of fitness as the Commission may prescribe; and (d) that he is not disqualified by any of the provisions of section 3 of Civil Service Rule V or of any provision of the Civil Service Act and rules, or of any other statute or executive order. Any such person who fails to meet the foregoing requirements of this section shall be separated from the service within thirty days (exclusive of leave to which he is entitled) after the Commission reports that he is ineligible for classification unless the head of the agency concerned certifies to the Commission that such person has rendered satisfactory service and that he should be retained although without acquiring a competitive classified status.
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Iowa Public Service Co., hearing 1545		7. Classification in post offices.—The Postmaster General shall promptly notify the Commission of each order for the advancement of any post office from the third class to the second class, or for the consolidation of any post office with one in which the employees are classified as competitive. On the date of effect of such order, section 6 of this rule shall apply to the positions, officers, and employees of the offices affected, and all other provisions of these rules shall become applicable to all officers and employees who so qualify and to all such positions thereafter filled in the same manner as they apply to those in offices now classified. The Postmaster General shall, upon the date he reports the advancement of any post office from the third to the second class, or as soon thereafter as is practicable, notify the Commission as to which of the employees in such office he recommends for classification.
Massachusetts Utilities Associates, new trial examiner designated 1545		
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rules. The incumbent of any excepted position so filled will not be entitled to protection against removal afforded by these rules; nor will the incumbent of any excepted-by-law position so filled be entitled to the benefits of the Civil Service Retirement Act solely by virtue of such employment.

4. Assignment of excepted employees.—A person appointed without competitive examination under section 3 of this rule or by authority of an act of Congress shall not be assigned to the work of a competitive classified position without the approval of the Commission or specific provision of law.

5. Laborers.—Laborers who, in connection with their usual duties, are to perform work of the grade performed by classified employees shall be appointed upon certification by the Commission from appropriate registers of eligibles in the manner provided by these rules; and a person employed merely as a laborer or workman without examination under these rules shall not be assigned to work of the grade performed by classified employees. Unclassified laborers may be assigned to classified work incidentally, but not as a part of their main work, in cases where such work cannot be conveniently and economically done by classified employees, but not without the prior consent of the Commission obtained before such assignment.

6. Excepted employees—when classified.—Except as provided in section 7 of this rule a person holding a position when it becomes classified or otherwise subject to competitive examination shall, upon recommendation to the Commission by the head of the department or establishment in which he is employed, have all the rights which he would acquire if appointed thereto upon competitive examination: Provided, (a) that he was appointed at least six months prior to the effective date of the change in the status of the position; (b) that he has performed satisfactory active service during at least three months of the year immediately preceding the change in the status of the position; (c) that he shall pass such appropriate non-

#### RULE III. EXAMINATIONS

1. Competitive examinations.—The Commission shall prepare, recruit for, hold, and rate open competitive examinations for admission to the classified

service, and in all other cases required by these rules or by executive order, which examinations shall be of a practical and suitable character, and shall be held at such times and places as may most nearly meet the needs of the service, with due consideration for the convenience of applicants.

**2. Noncompetitive examinations.**—The Commission may give noncompetitive examinations to test fitness for (a) reinstatement, (b) appointment to positions excepted from the classified service under these rules or by executive order; and shall give noncompetitive examinations for transfer or promotion when competitive promotion examinations are not held.

**3. Examinations.**—Examinations shall whenever practicable be assembled and include written or practical tests; the rating of experience when part of the test shall, so far as practicable, follow personal interview and be qualitative as well as quantitative. Whenever the announcement of any examination in which education, training, or experience is prerequisite shall so state, and the applicants are given opportunity to file detailed sworn statements of their qualifications, a preliminary competitive rating may be given on the basis of the duties, requirements, and conditions of work in the position to be filled before any applicant shall be required to travel for further tests. Applicants rated highest on such preliminary rating, to a number not incommensurate with the number of vacancies expected during the life of the list, shall be afforded opportunity to assemble or otherwise compete in such further competitive tests as the Commission may require. The character, record, and physical fitness of applicants shall be tested or investigated and approved whenever practicable prior to certification.

**4. Examinations for professional or technical positions.**—All examinations for professional or technical positions or positions which under existing executive practice are filled only by persons having professional or technical training shall be formulated by the Civil Service Commission in collaboration with the head of the affected department, independent establishment, or corporation, or his designated representative, and shall make due allowance for the particular training, experience, and skill regarded as requisite under existing administrative practice.

#### RULE IV. BOARDS OF EXAMINERS

**1. Appointment and duties.**—(a) The Commission shall designate from among persons in the federal service, after consulting the head of the department or office in which such persons serve, such boards of examiners as it shall deem necessary. Their members shall perform such duties as the Commission may direct, in connection with the execution of the Civil Service Act and these rules, and in the performance thereof they shall be under the direct and sole

control of the Commission. Such duties shall be considered part of the duties of the office in which they are serving and time shall be allowed therefor during office hours. No such board shall be composed solely of adherents of one political party when other persons are available and competent to serve.

(b) Where qualified special examiners are not available in the federal service, the Commission may, by unanimous vote, designate individuals outside the service specially qualified by experience and training and of outstanding reputation in their own field to serve on a board of examiners for a particular examination and compensate them for such service on a *per diem* basis.

**2. Cooperation with other boards, commissions, and agencies.**—The Commission shall render all practicable assistance to the Philippine and Puerto Rico civil-service boards, and such other federal, state, or local agencies as shall request its cooperation and offer like cooperation or adequately provide its share of the expense, and shall conduct or join in conducting examinations, upon their request, under such regulations as may be jointly agreed upon. Where the Commission has joined in the conduct of such examinations, it may certify eligibles from appropriate resulting registers to fill vacancies in the United States civil service.

**3. Executive officers to facilitate examinations.**—Persons in the executive civil service shall facilitate the holding of examinations and other work of the Commission; and executive officers in charge of public buildings shall permit and arrange for the use of suitable rooms under their charge, and for heating, lighting, and furnishing them.

#### RULE V. QUALIFICATIONS OF APPLICANTS

**1. Citizenship.**—No person shall be admitted to examination unless he is a citizen of or owes allegiance to the United States, and no person shall be examined or certified for appointment if his appointment would be contrary to law.

**2. Form of application.**—Application for examination must be made under oath, in such form and manner and accompanied by such certificates as the Commission may prescribe.

**3. Disqualifications.**—The Commission may, in its discretion, refuse to examine an applicant for appointment or reinstatement or to certify an eligible for any of the following reasons: (a) Dismissal from the service for delinquency, inefficiency, or misconduct; (b) physical or mental unfitness for the position for which he applies: *Provided*, that the Commission may, in its discretion, exempt from the physical requirements established for any position a disabled honorably-discharged soldier, sailor, or marine upon a certificate of the United States Veterans Administration attesting that he has completed an appropriate and sufficient rehabilitatory course of

training for the duties of the class of positions in which employment is sought; *And provided further*, that the Commission, may in its discretion, waive the physical requirements in the case of a disabled veteran not so trained to permit his examination; (c) criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct; (d) intentionally making a false statement as to any material fact, or practicing any deception or fraud in securing examination, registration, certification, or appointment; (e) refusal to furnish testimony as required by Rule XIV; and (f) the habitual use of intoxicating beverages to excess.

Any of the reasons stated in the foregoing clauses (b) to (f), inclusive, shall also be good cause for removal from the service.

**4. Age limits.**—The Commission may, with the approval of the proper appointing officer, change by regulation the existing age limits for entrance to the examinations under these rules, but persons entitled to veteran preference may be examined without regard to age except for such positions as the Commission shall by regulation specify: *Provided*, that they have not reached the retirement age for the position sought.

**5. Trades positions.**—Applicants for positions in the recognized mechanical trades must have served as apprentices or journeymen for such periods as the Commission may prescribe.

#### RULE VI. RATINGS AND ELIGIBILITY

**1. Rating.**—Examination papers shall be rated on a scale of 100 and the subjects therein shall be given such relative weights as the Commission may prescribe. Honorably discharged soldiers, sailors, and marines, shall have 5 points added to their earned ratings in examinations for entrance to the classified service. Applicants for entrance examination who are honorably discharged and who establish by official records the present existence of a service-connected disability, or who are over fifty-five years of age and, because of disability, are entitled to pension or compensation under existing laws, and widows of honorably discharged soldiers, sailors, and marines, and wives of honorably discharged soldiers, sailors, and marines who because of service-connected disability or who are over fifty-five years of age and because of disability, are themselves not qualified but whose wives are qualified for appointment, shall have 10 points added to their earned ratings; and this shall also apply to retired officers and enlisted men who establish through official sources the present existence of a service-connected disability in the same manner as is required of others who are granted disability preference. In examinations where experience is an element of qualification, time spent in the military or naval service of the United States during the World War or the War with Spain shall be credited in an applicant's ratings where the applicant's actual employment in a similar vocation to

that for which he applies was temporarily interrupted by such military or naval service but was resumed after his discharge. The Commission, not oftener than once each quarter, may reopen examinations to applicants granted disability preference.

Employees in any positions in the classified service who are qualified to enter any open competitive examination shall, upon earning a passing mark therein, be placed also upon a separate list of eligible government employees, which list may be certified separately in accordance with the civil service rules to fill vacancies occurring in the positions for which the examination is held. Age limitations may be waived for employees otherwise eligible to compete in such examinations. Employees eligible to compete in any such examination shall be granted leave of absence for the time required to take such examination.

Competitors shall be notified of their ratings, and upon their request, they shall also be notified of their standing on the list.

**2. Eligible registers.**—All competitors rated at 70 or more shall be eligible for appointment, and their names shall be placed on the proper register according to their ratings; but the names of persons entitled to disability preference as defined in section 1 of this rule shall be placed above all others.

**3. Term of eligibility.**—The term of eligibility shall be one year beginning with the date on which the name of the eligible is entered on the register. This term may be extended, in the discretion of the Commission, for one additional year, and thereafter a register may be certified only for such eligibles as continue to meet all examination requirements, and where experience was part of the test only after supplementary examination of additional and interim experience and rerating of such experience. All eligibles on a list more than two years old who fail to file additional experience data as required by the Commission or who fail to meet the requirements or receive a passing mark on rerating shall be dropped from the list. No register hereafter established shall be used for more than two years unless it has been extended and revised in accordance with the provisions of this rule.

#### RULE VII. CERTIFICATION

**1. Method of filling vacancies.**—All vacancies in any position or employment not excepted from examination shall be filled as hereinafter provided: (a) By transfer upon requisition to and certificate of the Commission, of any employee employed anywhere in the service holding a position in the same class of the same grade, or otherwise eligible for such transfer under Rule X; (b) by reinstatement upon requisition to and certificate of the Commission under Rule IX or by certificate without requisition under section 4 of Rule XII in the discretion of the Commission; (c) by competitive pro-

motion upon requisition to and certificate by the Commission from a competitive promotion register of eligibles in the department or establishment where the vacancy exists, or if there are no such eligibles, then from such a register of eligibles in other departments or establishments having the same status in the service, such certification to be in the order of standing on such eligible register unless the Commission shall determine that a selective certification is necessary pursuant to the rules; (d) by non-competitive promotion upon requisition to and certificate of the Commission following noncompetitive examination when competitive promotion examinations are not held; (e) by transfer from a lower to a higher position of any employee eligible for such transfer upon requisition to and certificate of the Commission following examination; and (f) from open competitive eligible registers upon requisition to and certificate by the Commission.

**2. Method of certification.**—Certification for original appointment and competitive promotion shall be made as follows:

(a) **Certification.**—The nominating or appointing officer shall request the certification of eligibles, and the Commission shall certify, from the head of the appropriate register of eligibles, a number of persons sufficient to permit the nominating or appointing officer to consider three persons in connection with each vacancy. When so provided by regulation of the Commission, selection shall be made from the register by the nominating or appointing officer without preliminary certification of the Commission. Where the Commission finds that there is no register in existence appropriate as a whole to fill a particular existing vacancy, the Commission in its discretion may certify selectively from the most nearly appropriate existing register, in the order of their ranking, the names of any individuals thereon found by it to be adequately qualified to fulfill the particular requirements of the vacant position. Certification of an eligible for temporary appointment shall not affect his eligibility for certification for probationary appointment. Certification shall be made without regard to sex unless the sex desired is specified in the original requisition.

(b) **Selections.**—The nominating or appointing officer shall make selections for the first vacancy from not more than the highest three persons certified, or on the register, with sole reference to merit and fitness, unless objection shall be made and sustained by the Commission, to one or more of the persons certified, for any of the reasons stated in Rule V, section 3. For the second vacancy he shall make selection from not more than the highest three remaining, who have not been within his reach for three separate vacancies, or against whom objection has not been made and sustained in the manner indicated. The third and

any additional vacancies shall be filled in like manner. More than one selection may be made from the three persons next in order for appointment, or from two persons if the register contains the names of only two, subject to the requirements of section 3 of this rule as to the apportionment.

An appointing officer who passes over an eligible veteran and selects another eligible with the same or a lower rating shall file with the Civil Service Commission a written statement setting forth in detail his reasons for so doing, which reasons will not be made available to the veteran or any one else except in the discretion of the appointing officer. The Commission will review these reasons and in every instance where they are not regarded as adequate will so advise the head of the appropriate department or independent establishment for his consideration.

Any eligible who has been within reach for three separate vacancies in his turn may be subsequently selected, subject to the approval of the Commission, from the certificate on which his name last appeared, if the condition of the register has not so changed as to place him in other respects beyond reach of certification.

(c) **Probationary appointment.**—A person selected for appointment shall be duly notified by the appointing officer and upon accepting and reporting for duty shall receive from such officer a certificate of probationary appointment. The first year of service under this appointment shall be the probationary period unless a shorter period, not less than six months, is provided by regulation. If and when, after full and fair trial for not less than one month, the conduct or capacity of the probationer be not satisfactory to the appointing officer, the probationer may at any time thereafter during this period be so notified in writing, with a full statement of reasons, and this notice shall terminate his service. Efficiency-rating reports of all probationers shall be periodically filed with the Commission at such time and in such form as the regulations of the Commission shall provide. If at the end of the probationary period the probationer's service rating has been satisfactory, to the extent required by regulation, his retention in the service shall confirm his absolute appointment. If, however, his service rating has been unsatisfactory as so provided, his service shall be terminated at the end of the probationary period.

A probationer separated from the service without delinquency or misconduct may be restored to the register of eligibles in the discretion of the Commission for the remainder of any period of eligibility thereon.

(d) **Apportionment.**—Certification for appointment in the departments or independent offices at Washington shall be so made as to maintain, as nearly as the conditions of good administration war-

rant, the apportionment of appointments among the several States and Territories and the District of Columbia upon the basis of population, but eligibles who have been granted military preference shall be certified without regard to apportionment, and the appointments of persons covered into the classified service by executive order or otherwise, or exempted from the restrictions of the quota provision in certification, shall be excluded from the apportionment figures: *Provided*, that appointments to the following positions shall not be so apportioned:

(a) In all departments and offices: Apprentice, electric lineman, electric wireman, engraver, gardner, helper (if approved by the Commission), skilled laborer (female), student, telephone operator, and mechanical trades and allied positions of the noneducational class incumbents of which are retirable at not over 65 years of age.

(b) In the Government Printing Office, mail equipment shops (now field), local offices in the District of Columbia, field service of the military staff departments, and at Army headquarters: All positions.

(c) In the Bureau of Engraving and Printing: Plate printer and skilled helper.

4. *District certification.*—The Commission may arrange the territory of the United States into appropriate districts for the purpose of certification to positions in parts of the service not subject to apportionment, and certification to any such position may be confined to residents of the district in which such position is located.

#### RULE VIII. TEMPORARY APPOINTMENT

1. *Pending regular filling of vacancy.*—Temporary appointment without examination and certification by the Commission shall not be made to a competitive position in any case, except when the public interest so requires, and then only upon the prior authorization of the Commission; and any appointment so authorized shall continue only for such period as may be necessary to make appointment through certification of eligibles, and in no case, without prior approval of the Commission, shall extend beyond thirty days from the date of the receipt by the appointing officer of the Commission's certificate. When a vacancy is to be filled by promotion or transfer under the civil service rules and a temporary appointment is authorized by the Commission under the provisions of this section pending the promotion or transfer, such temporary appointment shall in no case continue beyond the period of thirty days without prior approval of the Commission.

2. *Pending establishment of register.*—Whenever there are no eligibles upon a register for any grade in which a vacancy exists and the public interest requires that the vacancy be filled before eligibles can be provided by the Com-

mission, the Commission may authorize temporary appointment without examination. Such appointment shall continue only for such period as may be necessary to make appointment through certification, and in no case, without prior approval of the Commission, shall extend beyond thirty days from the date of the receipt by the appointing officer of the Commission's certification of eligibles.

3. *Pending full certification.*—Whenever there is at least one eligible and not more than two eligibles on a register for any grade in which a vacancy exists, the Commission shall, upon requisition from the proper appointing officer, certify the one eligible or the two eligibles, as the case may be, who shall be considered by the appointing officer with a view to probationary appointment; and if the appointing officer shall elect not to make probationary appointment from such certification, and temporary appointment is required, such appointment shall be made from such certification unless reasons satisfactory to the Commission are given why the appointment should not be so made. Such temporary appointment may continue until three eligibles are provided. If selection is not made from the certification for either probationary or temporary appointment under the provisions of this section, then temporary appointment, if required, may be made under the provisions of section 2 of this rule.

4. *Job employment.*—When there is work of a temporary character, at the completion of which the services of an additional employee will not be required, a temporary appointment may be made with the prior consent of the Commission for a period not to exceed three months, and may with like consent of the Commission be extended for a further period of three months. Such temporary appointment shall be made through certification from the Commission's eligible registers unless the Commission shall decide, in a particular case, that there are no available eligibles. Such temporary appointment shall not extend beyond six months, unless there are no eligibles available for the additional period or under unusual circumstances which seem to the Commission to justify an extension beyond six months; and in no case shall such temporary appointment extend beyond six months for any purpose other than to complete the job of work for which the person was originally employed. The Commission may restrict certification for temporary appointment to such eligibles as by reason of residence or other conditions are immediately available.

5. *Temporary appointment made permanent.*—The acceptance by an eligible of a temporary appointment shall not affect his standing on any register for permanent employment, and experience gained as a temporary appointee shall in no way vary the order of certification for permanent appointment. A tem-

porary appointment may be made permanent when the temporary appointee is within reach for permanent appointment at the time of his temporary appointment or in case he is so within reach during his temporary service. In such case the probationary appointment may date from the time when he became within reach for probationary appointment. A person who has been temporarily employed under the provisions of one section of this rule shall not for that reason be ineligible for employment under any other section. Any appointment under sections 1, 2, or 3 of this rule shall be promptly reported by letter to the Commission, as made, with a statement of the action taken for making a permanent appointment.

The Commission is authorized to inspect the records of any department or office to aid it in observing and enforcing the operation of the provisions of this rule and reporting thereon to the President.

#### RULE IX. REINSTATEMENT

1. *Certificate required—conditions.*—A person separated without delinquency, misconduct, or inefficiency from a civilian position in the federal service after absolute appointment may be reinstated upon certificate of the Commission subject to the following limitations:

(a) Upon requisition for reinstatement by the appointing office having a vacancy to fill, made within one year of separation if the period of service was less than two years; within two years if the period of service was two years or more but less than three years; within three years if the period of service was three years or more but less than four years; within four years if the period of service was four years or more but less than five years; and without time limit if the period of service was five years or more: *Provided*, that the applicant is otherwise eligible under the conditions of the executive order of June 2, 1920.

(b) A former classified employee entitled to military preference in appointment may be reinstated without time limit.

(c) A former classified employee retired upon annuity under the Civil Service Retirement Act by reason of total disability who is eligible for reinstatement by reason of recovery and termination of annuity, shall be eligible for reinstatement subject to the conditions and limitations of the civil service rules.

(d) No person may be reinstated to a position in the classified service who did not have a classified status at the time of separation, or eligibility for such status through examination.

(e) No person may be reinstated to a position in the classified service without passing an appropriate noncompetitive examination testing fully his present fitness for the position when the Commission shall so require.

2. *Probationer.*—A person separated during or at the end of his probationary

period unless separated solely by reason of reduction in force may not be reinstated, but if he has been restored through the discretion of the Commission to the eligible register he may be certified for a new probational appointment therefrom; and if said register has been terminated and separation was without fault on his part, he may be certified in the discretion of the Commission, during a period of one year following separation, for a new probational appointment upon requisition from any appointing officer for such certification to fill any vacancy for which he was originally eligible.

**3. Removed person.**—A person removed from the service, may, in the discretion of the Commission, be certified for reinstatement to any vacancy in any position for which he was formerly eligible to any other department or establishment pursuant to the provisions of Rule XII, section 4.

#### RULE X. TRANSFER

**1. Transfers subordinate to promotions.**—No transfer shall be made to a position above the grade in which the proposed transferee has served unless the position cannot practicably be filled by promotion.

**2. Transfers from excepted to competitive position.**—No person appointed without competitive examination to a position classified at the time of such appointment, and no person serving in an unclassified position or in a position excepted from the classified service under these rules or by executive order, not appointed by competitive examination, or by transfer or promotion from a classified position, shall be transferred to a classified position, except as hereinafter provided in this rule.

**3. Retransfer.**—Any person may be retransferred to a position in which he was formerly employed or to any position to which transfer could be made therefrom if, since his transfer, he has served continuously and satisfactorily under any of the following conditions:

(1) In the executive or judicial civil service of the United States or of its insular possessions.

(2) In the legislative service.

(3) In the service of a state, county, municipality, or foreign government in a position in which he has acquired valuable training and experience.

(4) In a training course approved by the Commission in any educational institution of recognized standing.

Such retransfer may be made without compliance with clauses (b), (c), and (d) of section 6 of this rule.

**4. From the office of the President.**—Any person who has served for at least two years in the office of the President of the United States may be transferred to a classified position upon such tests of fitness as the Commission may deem proper.

**5. Without certificate.**—Transfers within the same branch of the field serv-

ice of a department or office, and transfers among the military staff departments and from the War Department to any military staff department, subject to the rules and regulations regarding promotions, may be made without certificate of the Commission unless different tests are prescribed for original entrance to the position to which transfer is proposed and unless otherwise provided by regulations of the Commission.

**6. Certificate required.**—Unless otherwise specifically provided in this rule no person shall be transferred except on certificate of the Commission previously obtained and subject to the following limitations:

(a) *Absolute appointment.*—Such person must have received absolute appointment and have served at least six months in the position from which transfer is sought; but this limitation may be waived by the Commission in any cases where reduction in force is involved.

(b) *Examination.*—Such person must pass an appropriate examination whenever different tests are prescribed for original entrance to the position to which transfer is proposed.

(c) *Qualifications and experience.*—Such person shall not be transferred unless, in the judgment of the Commission, he possesses experience, qualifications, or training which are required for the proper performance of the duties of the position to which transfer is proposed and unless promotion in the manner provided by the civil service rules is not practicable.

(d) *Apportionment.*—The apportionment must be observed unless waived by the Commission upon the certificate of the appointing officer that the transfer is required in the interests of good administration, setting forth in detail the reasons therefor.

**7. Residence.**—The person to be transferred from a nonapportioned to an apportioned position shall be required, previous to his transfer, to prove his residence in the same manner as for original appointment.

**8. Philippine service.**—An officer or employee occupying a competitive position in the Philippine classified service who has served three years or more therein, may be transferred to the federal classified service, subject to the provisions of these rules; but the Commission may authorize the transfer of an officer or employee who has served two years in the Philippine classified service and who has been separated by necessary reduction of force or by displacement by a Filipino, if he is especially recommended by the War Department because of his efficiency and good character. In all cases of proposed transfer from the Philippine classified service the War Department shall furnish the Commission, for its consideration, all relevant information contained in its files, together with the service record of the employee.

**9. Puerto Rican service.**—The Commission may, in its discretion, authorize the transfer of employees from the civil service of Puerto Rico to that of the United States, subject to the limitations respecting transfer within the civil service of the United States.

**10. Panama Canal service.**—A citizen of the United States in the service of The Panama Canal on or before January 1, 1915, in an excepted position may, if recommended by The Panama Canal, be transferred to any position in the classified service for which he can qualify, provided:

(a) This section shall not apply to a person appointed to a competitive position in accordance with the civil service rules, the transfer of such person to be governed by the general provisions of the rules.

(b) This section shall not apply to a person appointed without examination to perform the duties of clerk of any grade, bookkeeper, stenographer, typewriter, surgeon, physician, trained nurse, or draftsman.

(c) The transferee has rendered at least two years of service in a position above the grade of unskilled laborer in the service of The Panama Canal or of the Panama Railroad by transfer from The Panama Canal.

**11. Service beyond seas.**—In a case of exceptional merit where an employee has rendered long and faithful service beyond seas in a civil capacity, under conditions such that his appointment and services were not in contravention of the civil service rules or executive orders, he may be given a classified status by the head of the department or office in which such service was rendered on certification by such officer that the case is one of exceptional merit and with the approval of the Commission. The provisions of this section may be applied in the case of Philippine constabulary officers who have rendered at least seven years of efficient and satisfactory service.

#### RULE XI. PROMOTION

**1. Competitive tests.**—In addition to the method of competitive promotion provided by Rules III, VI, and VII, competitive examinations for promotion and transfer may from time to time be held under the direction of the Commission to test fitness for promotion and transfer, subject to the following limitations:

(a) No employee during probation shall be eligible to participate in a promotion examination or be promoted to a position higher than that for which he was eligible at time of appointment; and eligibility to participate in each such examination shall be limited to employees declared by the Commission to be in line of promotion and to employees declared by the Commission to be eligible for transfer to the position for which the examination is held and who are otherwise qualified.

(b) The service ratings of the employee in the position from which he seeks

promotion, when declared by the Commission to be in line of promotion, shall be given due weight in any such examination, which weight shall constitute at least 50 per cent of the final rating.

2. *Limitations.*—Promotion registers shall be prepared by the Commission in the order of standing in such examinations. Employees eligible for promotion upon any register shall be certified in the order of their standing on the register to a vacancy in the bureau or department in which they have been serving before certification of eligibles who are serving in any other department or independent establishment shall be made. The apportionment and requisition as to sex shall be observed in certifications for promotion, and upon cause shown that particular experience or qualification is required for the position to be filled selective certification may be made by the Commission in its discretion, but otherwise certification for promotion shall be made from the first three eligibles in the order of standing on the promotion register.

3. *Improper recommendations.*—No recommendation for promotion except in the regular form of periodical service-rating reports or unless it be made by the person or persons under whose supervision such employee has served shall be considered by any officer concerned in making promotions. Recommendation in any other form or by any other person, if made with the knowledge and consent of the employee, shall be sufficient cause for debarring him from the promotion proposed, and a repetition of the offense shall be sufficient cause for removing him from the service.

4. *Promotion of substitutes.*—Substitutes shall be promoted to the first vacancies occurring in regular positions in the order of their original appointment, whenever there are substitutes of the required sex who are eligible and will accept, unless such vacancies are filled by promotion, transfer, or reinstatement.

5. *Promotion to former grade.*—A person who has been reinstated in the classified service in a grade lower than that from which he had been separated may be promoted to his former grade without examination.

#### RULE XII. REMOVALS AND REDUCTIONS

1. *Reasons to be furnished.*—No person in the classified service of the United States shall be removed therefrom except for such cause as will promote the efficiency of the service and for reasons given in writing, and the person whose removal is sought shall have notice of the same and of any charges preferred against him and be furnished with a copy thereof, and also be allowed a reasonable time for personally answering the same in writing; and affidavits in support thereof; but no examination of witnesses nor any trial

or hearing shall be required except in the discretion of the officer making the removal; and copies of charges, notice of hearing, answer, reasons for removal, and of the order of removal shall be made a part of the records of the proper department or office, as shall also the reasons for reduction in rank or compensation; and copies of the same shall be furnished to the person affected upon request, and the Commission also shall, upon request, be furnished copies of the same.

2. *Like penalties for like offenses.*—In making removals or reductions, and in other punishment, like penalties shall be imposed for like offenses, and no discriminations shall be exercised for political or religious reasons.

3. *Suspensions.*—Pending action under section 1 of this rule, or for disciplinary reasons, a person may be suspended for a period not to exceed ninety days, but the reasons for such suspension shall at the time of the suspension be filed in the records of the proper department or office and copies shall be furnished the Commission upon request. The period of suspension may be extended beyond ninety days with the prior consent of the Commission.

4. *Power to investigate.*—The Commission shall have no jurisdiction to review the findings of a removing officer upon the reasons and answer provided for in section 1 of this rule, nor shall the Commission have authority to investigate any removal or reduction, unless it is alleged, with offer of proof, that the procedure required by section 1 of this rule has not been followed, or that the removal was made for political or religious reasons. The Commission may, however, receive or hear the statement of any employee removed on charges, and may, in its discretion, certify the employee to any other department or establishment for reinstatement to a vacancy in any position for which the employee is qualified, and in the event of such reinstatement the employee shall retain his former status and tenure in the service for all purposes.

5. *Retention of soldiers and sailors.*—In harmony with statutory provisions, when reductions are being made in the force, in any part of the classified service, no employee entitled to military preference in appointment shall be discharged, dropped, or reduced in rank or salary if his record is good, or if his efficiency rating is equal to that of any employee in competition with him who is retained in the service.

#### RULE XIII. REPORT OF CHANGES

1. *Report by appointing officer.*—Every nominating or appointing officer in the executive civil service shall report in detail to the Commission whenever and in such manner as it may prescribe, all changes in the service under his authority, whether they affect positions or em-

ployees that are classified, unclassified, excepted, permanent, temporary, or subject to contract.

2. *List of positions.*—Such officers shall also furnish to the Commission, when requested, and in such manner as it may prescribe, information as to numbers of employees, payroll data, and a list of all the positions, and employments under their authority, together with the names, designations, compensations, duties, and dates of appointment or employment of all persons serving therein.

3. *Statement of duties.*—Reports of appointments and changes in status of laborers or workmen shall be supplemented, when requested, by a statement setting forth specifically the kind of labor performed, in detail sufficient to enable the Commission to determine the status of each position as classified or unclassified; and a similar statement of duties performed by any employee or pertaining to any position in the executive civil service shall be furnished to the Commission on request. All essential changes of duties pertaining to persons appointed as laborers or workmen without examination under the civil service rules shall be reported at once to the Commission.

#### RULE XIV. TESTIMONY

*Duty of officers and employees.*—It shall be the duty of every officer and employee in the executive civil service, and of every applicant or eligible for a position therein, to give to the Commission or its authorized representative all proper and competent information and testimony in regard to matters inquired of arising under the Civil Service Act and rules, and to subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths.

#### RULE XV. WITHHOLDING SALARY

*Legal appointment necessary to compensation.*—For the proper supervision and enforcement of its functions, the Commission shall, if it finds that any person has been appointed to or is holding any position, whether by original appointment, promotion, assignment, transfer, or reinstatement, in violation of the Civil Service Act or of the rules promulgated in accordance therewith, or in violation of any executive order or any regulations of the Commission, or that any employee subject to such Act, rules, orders, or regulations is taking active part in political management or political campaigns, after notice to the person affected and opportunity for explanation, certify the facts to the proper appointing officer with specific recommendation for discipline or dismissal; and such appointing officer shall carry out the recommendation. In the event of any continued violation for ten days after such recommendation, the Commission shall certify the facts to the proper disbursing and auditing officers,

and such officers shall not pay or allow the salary or wages of such person thereafter accruing.

#### RULE XVI. REGULATIONS

**1. Authority to make regulations.**—The Commission shall have authority to make regulations for the execution of these rules.

**2. Regulations.**—No executive department or agency shall make any modification of its civil service regulations without the approval of the Commission.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE  
June 24, 1938.

[No. 7915]

[F. R. Doc. 38-1814; Filed, June 24, 1938;  
3:19 p.m.]

#### EXECUTIVE ORDER

##### EXTENDING THE COMPETITIVE CLASSIFIED CIVIL SERVICE

By virtue of and pursuant to the authority vested in me by the Constitution, by Section 1753 of the Revised Statutes (U. S. C., Title 5, Section 631), by the Civil Service Act of January 16, 1883 (22 Stat. 403), and as President of the United States, it is hereby ordered as follows:

**SECTION 1.** Effective February 1, 1939, all positions in the Executive civil service, including positions in corporations wholly owned or controlled by the United States, which are not now in the competitive classified civil service and which are not exempted therefrom by statute, except (1) policy-determining positions and (2) other positions which special circumstances require should be exempted, are covered into the competitive classified civil service: *Provided*, That this section shall not be deemed to apply to positions filled by appointment by and with the advice and consent of the Senate; *And provided further*, That no positions shall be exempted from the competitive classified civil service under clauses (1) and (2) above except such as shall be designated in subsequent Executive orders issued after investigation showing the necessity and justification for such exemptions. This section shall also apply to positions affected by statutes which exempt them from the competitive classified civil service but authorize the President in his discretion to cover them into such service.

**SECTION 2.** Within ninety days from the date of this order the heads of all departments and independent establishments, including corporations wholly owned or controlled by the United States, whose personnel or any part thereof is affected by Section 1 of this order, shall certify to the Civil Service Commission for transmission by it with its recommendations to the President the positions in their respective depart-

ments or agencies which in their opinion should be excepted from the provisions of Section 1 of this order as policy-determining or for other reasons.

**SECTION 3.** The incumbent of any position which is covered into the competitive classified civil service by Section 1 of this order shall acquire a classified civil service status (1) upon recommendation by the head of the agency concerned and certification by such head to the Civil Service Commission that such incumbent was in the service on the date of this order and has rendered satisfactory service for not less than six months, and (2) upon passing a suitable noncompetitive examination prescribed by the Civil Service Commission under the civil service rules: *Provided*, That he is a citizen of the United States and is not disqualified by any provision of law or civil service rule. Any such incumbent who fails to meet the foregoing requirements of this section shall be separated from the service within thirty days (exclusive of leave to which he is entitled) after the Commission reports that he is ineligible for classification unless the head of the agency concerned certifies to the Commission that such incumbent has rendered satisfactory service and that he should be retained although without acquiring a competitive classified status.

**SECTION 4.** New appointments to any positions covered into the competitive classified civil service by Section 1 of this order shall not be affected by the provisions of said section until the Civil Service Commission shall have established registers of eligibles for such positions as a result of examinations held in accordance with the civil service rules and regulations and with this order.

**SECTION 5.** The Civil Service Commission shall, subject to the Civil Service Act, the rules thereunder, and the Classification Act of 1923, as amended, initiate, supervise, and enforce a system as uniform as practicable, for the recruitment, examination, certification, promotion from grade to grade, transfer, and reinstatement of employees in the classified civil service, other than employees therein excepted by Executive orders, issued pursuant to clauses (1) and (2) of Section 1 hereof, which system shall, so far as practicable, be competitive, with due regard to prior experience and service.

**SECTION 6.** Effective not later than February 1, 1939, the heads of the Executive departments and the heads of such independent establishments and agencies subject to the civil service laws and rules as the President shall designate, shall establish in their respective departments or establishments a division of personnel supervision and management, at the head of which shall be appointed a director of personnel qualified by training and experience, from among those whose names are certified for such appointment by the Civil Service Commission pursuant to such competitive tests and requirements as the

Civil Service Commission shall prescribe: *Provided*, however, that if the head of a department or establishment requests authority to appoint a presently acting personnel or appointment director, officer, or clerk, as such director of personnel, such personnel or appointment director, officer, or clerk may be appointed upon certification by the Civil Service Commission that he is qualified therefor after passing such tests as the Civil Service Commission shall prescribe. It shall be the duty of each director of personnel to act as liaison officer in personnel matters between his department or establishment and the Civil Service Commission, and to make recommendations to the departmental budget officer with respect to estimates and expenditures for personnel. He shall supervise the functions of appointment, assignment, service rating, and training of employees in his department or establishment, under direction of the head thereof, and shall initiate and supervise such programs of personnel training and management as the head thereof after consultation with the Civil Service Commission shall approve, including the establishment of a system of service ratings for departmental and field forces outside of the Classification Act of 1923, as amended, which shall conform as nearly as practicable with the system established under the said Act. Subject to the approval of the head of such department or establishment and of the Civil Service Commission he shall establish means for the hearing of grievances of employees and present appropriate recommendation for the settlement thereof to the head of his department or establishment. He shall serve as a member of the Council of Personnel Administration hereinafter established, and perform such other functions as the head of the department or agency after consultation with the Civil Service Commission shall prescribe. A director of personnel may be transferred from one department or establishment to another from time to time, subject to the provisions of the civil service rules and with the approval of the head of the agency to which transfer is proposed.

**SECTION 7.** Effective February 1, 1939, there is established a Council of Personnel Administration consisting of the directors of personnel of the several departments and independent establishments, one additional representative of the Bureau of the Budget, one additional representative of the Civil Service Commission, and such additional members as the President shall designate. The President shall designate one of the members of the Council to act as chairman thereof, and the Council may designate an executive director. The Council shall advise and assist the President and the Commission in the protection and improvement of the merit system, and recommend from time to time to the President or the Commission needed changes in procedure, rules, or regulations. When directed so

to do by the President or the Commission, the Council shall hold hearings and conduct investigations with respect to alleged abuses and proposed changes. The Council shall carry on programs of study to coordinate and perfect the executive personnel service in all its branches, and shall report upon the progress of personnel administration throughout the service. The Council shall have an executive committee of five members: one representing the ten executive departments to be chosen by the Directors of Personnel thereof; one representing the independent establishments and agencies to be chosen by the Directors of Personnel thereof; one representing the Bureau of the Budget to be chosen by the Director thereof; one representing the Civil Service Commission to be chosen by it; and one to be designated by the President. Executive Order No. 5612 of April 25, 1931, is hereby revoked.

**SECTION 8.** The Civil Service Commission shall, in cooperation with operating departments and establishments, the Office of Education, and public and private institutions of learning, establish practical training courses for employees in the departmental and field services of the classified civil service, and may by regulations provide credits in transfer and promotion examinations for satisfactory completion of one or more of such training courses.

**SECTION 9.** Schedules A and B of the Civil Service Rules, as presently existing, relating to positions excepted from examination and positions which may be filled upon noncompetitive examination, will be superseded by schedules designating policy-determining positions and other positions which special circumstances require should be exempted, which schedules will be set forth in subsequent Executive orders as provided in section 1 hereof.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,  
June 24, 1938.

[No. 7916]

[P. R. Doc. 38-1815; Filed, June 24, 1938;  
3:20 p.m.]

### Rules, Regulations, Orders

#### TITLE 9—ANIMALS AND ANIMAL PRODUCTS

#### BUREAU OF ANIMAL INDUSTRY

(B. A. I. Order 367)

REGULATIONS GOVERNING APPRAISEMENT OF  
AND COMPENSATION FOR TUBERCULOUS,  
PARATUBERCULOUS AND BANG'S DISEASE  
REACTING CATTLE CONDEMNED AND  
DESTROYED IN THE CONTROL AND ERADICA-  
TION OF TUBERCULOSIS, PARATUBER-  
CULOSIS, AND BANG'S DISEASE OF ANIMALS

JUNE 25, 1938.

Under the authority conferred by law  
upon the Secretary of Agriculture the

No. 125—2

following regulations are hereby prescribed, to govern the condemnation, slaughter, or death after condemnation of animals, and expenditures on account of the control and eradication of tuberculosis, paratuberculosis, and Bang's disease of animals which for purposes of identification are designated as B. A. I. Order 367, and shall supersede B. A. I. Order 329, dated May 1, 1931, and amendments thereto; B. A. I. Order 344, dated June 12, 1934, and amendments thereto; and B. A. I. Order 347, dated July 19, 1934, and amendments thereto.

These regulations shall be effective on and after July 1, 1938.

[SEAL]

H. A. WALLACE,  
Secretary of Agriculture.

#### REGULATION 1.—DEFINITIONS

For the purpose of these regulations the following words, names, and terms shall be construed, respectively, to mean:

**SECTION 1. The Department.**—The United States Department of Agriculture.

**SEC. 2. The Secretary.**—The Secretary of Agriculture of the United States.

**SEC. 3. The Bureau.**—The Bureau of Animal Industry of the United States Department of Agriculture.

**SEC. 4. Diseases.**—Tuberculosis, paratuberculosis, and Bang's disease of animals.

**SEC. 5. Bureau employees.**—Inspectors and all other individuals employed in the Bureau who are authorized by the Chief of Bureau to do any work or perform any duty in connection with the arrest and eradication of diseases of animals.

**SEC. 6. Accredited veterinarians.**—Veterinarians accredited by State and Bureau.

**SEC. 7. Destroyed.**—Condemned and destroyed by slaughter or by death otherwise.

#### REGULATION 2.—PAYMENT FOR CATTLE

**SECTION 1.** If it appears to be necessary, for the control or eradication of tuberculosis, paratuberculosis, or Bang's disease of cattle, to destroy cattle affected with such diseases, and to compensate owners for loss thereof, an indemnity not to exceed one-third of the difference between the appraised value of each animal so destroyed and the value of the salvage thereof, shall be paid to such owner: Provided, however, that in no case shall any payment be more than \$25 for any grade animal, or more than \$50 for any purebred animal.

**SEC. 2.** For animals condemned or destroyed after May 1, 1939, no such payment shall exceed the amount paid or to be paid by the State, Territory, county, and municipality where the animal shall be condemned.

#### REGULATION 3.—APPRaisal OF CATTLE

**SECTION 1.**—Cattle affected with tuberculosis, paratuberculosis, or Bang's disease shall be appraised by a representative of the Bureau, or a cooperating rep-

resentative of the State, Territory, county, or municipality. However, the Bureau reserves the right to decline to accept any appraisals that appear to be unreasonable and out of proportion to the market value for similar cattle of a like quality. When such cattle are appraised, due consideration shall be given to their breeding value as well as to their dairy or meat value.

**SEC. 2.** Appraisals of cattle shall be reported on forms furnished by the Bureau (T. E. Form 23, revised). Reports of appraisals shall show the number of animals, the value of each per head, and shall be signed by the appraiser or appraisers and approved by the Bureau inspector in charge. Registration names, numbers, and ages of all purebred animals shall be shown (owners are required to present registration papers of all purebred animals 3 years of age or over at the time of appraisal). The Chief of the Bureau of Animal Industry may grant a reasonable time for the registration of animals under 3 years of age, otherwise, such animals shall be appraised as grades. Ages of all animals shall be shown on T. E. Form 23 (revised). The T. E. Form 23 (revised) shall show the amount paid or to be paid by the State, Territory, county, or municipality for said animals, and it shall be signed by a duly authorized official of the State, Territory, county, or municipality making partial payment for said animals. The T. E. Form 23 (revised) shall be signed by the owner of the said animals or his agent certifying that the appraisal is accepted by him, and that the amounts due him from the United States and the State, Territory, county, or municipality are correct. One copy of T. E. Form 23 (revised) shall be submitted to the Bureau with the claim and one copy shall be retained by the Bureau inspector in charge who approves the claim. Additional copies may be prepared and furnished to the State, Territory, county, or municipality officials if required. One copy may also be furnished the owner.

**SEC. 3.** The tuberculous, paratuberculous, or Bang's disease reacting cattle, for the elimination of which payment is to be made, shall be slaughtered within a period of 15 days after the date of appraisal. When the situation is such as to make it appear justifiable to the Bureau inspector in charge, he may extend the period within which such slaughter shall take place to 30 days. In a like situation the Chief of the Bureau of Animal Industry may extend the period within which such slaughter shall take place to more than 30 days. A report of the salvage derived from the sale of such animals shall be made on T. E. Form 24, which form shall be signed by the purchaser or his agent or by the selling agent handling the animals. If animals are sold by the pound, the T. E. Form 24 must show the weight, price per pound, gross receipts, expenses, if any, and net

## FEDERAL REGISTER, Tuesday, June 28, 1938

proceeds. If animals are not sold on a per pound basis, a full explanation must appear on T. E. Form 24, showing how the amount received was arrived at. In the event that the animals are not disposed of through regular slaughterers or through selling agents, in lieu of the T. E. Form 24 the owner shall furnish an affidavit showing the amount of net salvage obtained by him, and certify that said amount is all that he has received or will receive as salvage for said animal or animals. A certificate executed by the inspector in charge will be accepted in lieu of the owner's affidavit. The salvage is the net amount received for the animal. Freight, yardage, commissions, slaughtering charges, truckage, etc., may be deducted, but any charges for holding the animals on the farm pending slaughter shall not be deducted, and any such charges will not be paid by the Department. One copy of T. E. Form 24, or the affidavit or certificate of the inspector in charge which, as set forth above, may be furnished in lieu thereof, shall be submitted to the Bureau with the claim and one copy shall be retained by the Bureau inspector in charge who approves the claim. Additional copies may be prepared and furnished to the State, Territory, county, or municipal authorities, if required.

SEC. 4. Claim for tuberculous, paratuberculous, or Bang's disease reacting animals shall be presented on the Standard Form 1034, properly executed and accompanied by the above-mentioned T. E. forms.

## REGULATION 4.—CLAIMS NOT ALLOWED

SECTION 1. No payment shall be made for any cattle destroyed on account of tuberculosis, paratuberculosis, or Bang's disease unless the owner has complied with all requirements contained in these regulations.

SEC. 2. Claims will not be allowed which arise out of the condemnation of cattle for tuberculosis, paratuberculosis, or Bang's disease on a tuberculin, Johnin, or agglutination test applied by other than a Bureau veterinarian, a cooperating regularly employed State, Territory, county, or municipal veterinary inspector, or an accredited veterinarian.

SEC. 3. No compensation will be paid to owners of tuberculous, paratuberculous, or Bang's disease reacting cattle except for cattle in States, Territories, counties, or municipalities in which cooperative tuberculosis, paratuberculosis, or Bang's disease work is being conducted.

SEC. 4. Claims will not be allowed which arise (1) out of the condemnation of cattle for tuberculosis or paratuberculosis on a tuberculin or Johnin test applied by an accredited veterinarian, or (2) the drawing of blood for the purpose of making an agglutination test for Bang's disease by such veterinarian, unless in either case, specific instructions

have been issued to the accredited veterinarian by the proper State and Federal authorities.

SEC. 5. No compensation will be paid to any owner of tuberculous, paratuberculous, or Bang's disease reacting cattle whose entire herd is not under Federal and State supervision for the eradication of tuberculosis, paratuberculosis, or Bang's disease.

SEC. 6. No payment will be made for any cattle destroyed on account of tuberculosis, paratuberculosis, or Bang's disease after May 1, 1939, except in co-operation with, and supplementary to payments to be made by, the State, Territory, county or municipality, in which said cattle are condemned.

SEC. 7. No compensation will be paid to any owner for cattle destroyed on account of tuberculosis, paratuberculosis, or Bang's disease unless the infected premises have been properly cleaned and disinfected with a disinfectant permitted by the United States Bureau of Animal Industry in accordance with recommendations of the proper State or Bureau official.

SEC. 8. No compensation will be paid for tuberculous, paratuberculous, or Bang's disease reacting steers, except in cases of work oxen, nor will compensation be paid for bulls which are not purebred.

SEC. 9. No payment will be made for any cattle destroyed on account of tuberculosis or paratuberculosis unless such animals are marked for identification by branding the letter "T" on the left jaw, or for cattle destroyed on account of Bang's disease unless such animals are marked with the letter "B." In either instance the letter used shall not be less than 2 or more than 3 inches high. A metal tag bearing the serial number and the inscription "U. S. B. A. I. Reactor" or "U. S. B. A. I. Reactor, B. D." or a similar State reactor tag shall be suitably attached to the left ear of each reactor animal.

SEC. 10. No compensation will be paid to owners for calves under 6 months of age that react to the agglutination test for Bang's disease.

SEC. 11. No claim for compensation for the destruction of cattle on account of tuberculosis or paratuberculosis shall hereafter be paid or allowed under the regulations contained in B. A. I. Order 237, dated March 19, 1915, but all such claims shall be presented and paid pursuant to and in compliance with regulations contained in this order.

SEC. 12. No compensation will be paid to any owners for cattle classified as tuberculous or paratuberculous unless such cattle react to the tuberculin test or Johnin test, or reveal lesions of the disease upon autopsy.

SEC. 13. No payment shall be made for any cattle contained in a herd if there is substantial evidence that the owner or his agent has in any way been re-

sponsible for any attempt unlawfully or improperly to obtain indemnity funds for condemned cattle.

[F. R. Doc. 38-1824; Filed, June 25, 1938; 12:40 p. m.]

## TITLE 12—BANKING AND CREDIT

## FEDERAL DEPOSIT INSURANCE CORPORATION

## LOANS UPON SECURITY OF SAVINGS DEPOSITS

*Be it resolved.* That effective June 18, 1938, subsection (e) of Section 5 of Regulation IV<sup>1</sup> relating to the payment of deposits and interest thereon by insured nonmember banks, as adopted February 10, 1937, be and is hereby amended to read as follows:

"*Loans upon security of savings deposits.*—An insured nonmember bank may make a loan to any of its depositors upon the security of his savings deposits, provided that if the bank's practice is to require notice before permitting withdrawal of any amount or percentage of the savings deposits of any depositor, the rate of interest on such loan shall not be less than 2 per cent per annum in excess of the rate of interest on the savings deposit."

[SEAL]

E. F. DOWNEY,  
Acting Secretary.

[F. R. Doc. 38-1813; Filed, June 24, 1938; 3:18 p. m.]

## TITLE 16—COMPETITIVE PRACTICES

## FEDERAL TRADE COMMISSION

United States of America—Before  
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 14th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3107]

IN THE MATTER OF SHELTON TUBULAR RIVET CO., SHELTON TACK CO., TUBULAR RIVET & STUD CO., JUDSON L. THOMSON MFG. CO., MILFORD RIVET & MACHINE CO., CHICAGO RIVET & MACHINE CO., MANUFACTURER'S BELT HOOK CO., NATIONAL RIVET & MFG. CO., SCOVILL MFG. CO., PENN RIVET CORP., TOWNSEND CO., JOHN HASSALL, INC., J. W. COOMBS MFG. CO., INC., THE INSTITUTE OF TUBULAR-SPLIT AND OUTSIDE PRONGED RIVET MANUFACTURERS, AND WILLIAM FLEMING, JR., INDIVIDUALLY AND AS PRESIDENT OF THE INSTITUTE OF TUBULAR-SPLIT AND OUTSIDE PRONGED RIVET MANUFACTURERS

<sup>1</sup> 2 F. R. 373 (DI).

## ORDER TO CEASE AND DESIST

This proceeding having been heard by the Federal Trade Commission upon the complaint of the Commission and the answers thereto filed herein by all of the respondents, in which answers said respondents (except the Penn Rivet Corporation and the Scovill Mfg. Co., both of whom pray for dismissal), admitted all the material allegations of the complaint, insofar as this proceeding relates to the business of selling or offering for sale of industrial rivets, which term as used herein shall be deemed to mean tubular, split and outside pronged rivets, including compressed rivet sets, countersunk rivets, shoulder rivets, bifurcated rivets, rivet caps, brake lining rivets, harness rivets, and similar rivets, but not, however, including solid rivets; said admissions having been made only for the purposes of this proceeding and any proceeding which may be brought or instituted by virtue of the authority contained in the Federal Trade Commission Act, as amended and approved March 21, 1938, for the recovery of penalties therein provided in case of any violation hereof, and respondents (except the said Penn Rivet Corporation and the Scovill Mfg. Co.) having waived the taking of further evidence and all other intervening procedure, and the Commission having made its findings as to the facts and its conclusion that said respondents (except the said Penn Rivet Corporation and the Scovill Mfg. Co.) have violated the provisions of the Federal Trade Commission Act:

*It is ordered.* That the said respondents, Shelton Tubular Rivet Co., Shelton Tack Co., Tubular Rivet & Stud Company, Judson L. Thomson Mfg. Company, Milford Rivet & Machine Co., Chicago Rivet & Machine Co., Manufacturer's Belt Hook Company, National Rivet & Mfg. Co., Townsend Company, John Hassall, Inc., J. W. Coombs Mfg. Co., Inc., The Institute of Tubular-Split and Outside Pronged Rivet Manufacturers, and William Fleming, Jr., individually and as President of The Institute of Tubular-Split and Outside Pronged Rivet Manufacturers, their respective officers, agents and employees, cease and desist from entering into and carrying out any understanding, agreement, combination or conspiracy between and among any two or more of said respondents or between and among any one or more of the respondents and any member or members of the industry for the purpose or with the effect of restricting, restraining or monopolizing, or eliminating competition in the sale in interstate commerce of industrial rivets as hereinabove described and as a part of such understanding, agreement, combination or conspiracy from doing any of the following acts or things:

(a) Agreeing to fix and maintain and fixing and maintaining uniform delivered prices;

(b) Inducing by intimidation or persuasion members of the industry to raise the prices quoted by them to the uniform delivered prices resulting from said understanding, agreement, combination or conspiracy;

(c) Holding meetings of The Institute of Tubular-Split and Outside Pronged Rivet Manufacturers, its members and officers, to devise methods of asserting influence, pressure, coercion, or other means of inducing or requiring manufacturers and producers of industrial rivets to fix, establish or maintain prices or to fix, establish and publish prices for industrial rivets or to abide by or adhere to any uniform price list resulting from such said understanding, agreement, combination or conspiracy;

(d) Using and engaging in other cooperative acts, coercive means and practices in promoting the establishment of, and carrying out said understanding, agreement, combination or conspiracy;

*Provided.* That nothing herein contained shall prevent the lawful gathering, compilation and distribution to the trade of statistics, including discounts, net prices, terms and conditions and other particulars of closed transactions.

*It is further ordered.* That because of its dissolution on May 5, 1937, the complaint herein be, and the same hereby is, dismissed as to the respondent Penn Rivet Corporation;

*It is further ordered.* That the complaint herein be, and the same hereby is, dismissed as to the respondent, Scovill Mfg. Co., because there is no evidence showing that it participated in the acts and practices charged in the complaint;

*It is further ordered.* That all respondents hereinabove mentioned, except the Penn Rivet Corporation and the Scovill Mfg. Co., shall within sixty (60) days after service upon them of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

By the Commission.

[SEAL]

OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1816; Filed, June 24,  
1938; 4:24 p. m.]

## TITLE 30—MINERAL LANDS AND MINING

### BUREAU OF MINES

[Schedule 10C]

#### ELECTRIC MINE LAMPS, OTHER THAN CAP LAMPS

#### REQUIREMENTS FOR PERMISSIBILITY, TESTS MADE, AND FEES CHARGED

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#### 1. Authorization and Purpose

Investigations conducted at the Pittsburgh Experiment Station under the provisions of this schedule are authorized by the act of Congress approved February 25, 1913 (37 Stat. 682). This act, as amended by the act of June 30, 1932 (47 Stat. 410), contains the following provisions in regard to fees charged for investigations by the Bureau of Mines:

For tests or investigations authorized by the Secretary of the Interior under the provisions of this Act, as amended and supplemented, except those performed for the Government of the United States or State governments within the United States, a fee sufficient in each case to compensate the Bureau of Mines for the entire cost of the services rendered shall be charged, according to a schedule prepared by the Director of the Bureau of Mines and approved by the Secretary of the Interior, who shall prescribe rules and regulations under which such tests and investigations may be made. All moneys received from such sources shall be paid into the Treasury to the credit of miscellaneous receipts.

The purpose of the investigations made under this schedule is to aid in the development and use of electric lamps, other than cap lamps, that may be used in mines, especially in mines that may contain dangerous proportions of methane.

This schedule supersedes Schedule 10B, issued under date of June 1, 1932, and Schedule 11A, issued under date of January 13, 1936, and goes into effect when approved by the Secretary of the Interior.

Electric lamps and flashlights that meet the requirements set forth in this schedule will be termed "permissible" by the Bureau, and if actively marketed will be listed as such in publications relating to permissible equipment, in order that State mine inspection departments, compensation bureaus, mine operators, miners, and others interested in safety equipment for mines may have information in regard to electric lamps and flashlights approved by the Bureau.

#### 2. Definitions

*Adequate.*—Appropriate and sufficient as determined by mutual agreement between the manufacturer and the Bureau of Mines.

*Approval.*—Official notification in writing, issued only by the Director of the Bureau of Mines to a responsible organization, stating that upon investigation its lamp has been adjudged satisfactory under the requirements of this schedule.

*Explosion-proof compartment.*—An enclosure that withstands internal ex-

plosions of methane-air mixtures without damage to itself or discharge of flame and without ignition of surrounding explosive methane-air mixtures.

*Permissible.*—A permissible lamp or flashlight is one that conforms in all respects to the design and assembly formally approved by the Bureau.

### 3. Instructions for Making Applications

Before the Bureau of Mines will undertake the active investigation of any equipment, manufacturers shall have filed an application in the form of a letter requesting that the necessary inspections and tests leading to approval be made.

A sample application for an investigation of a lamp or flashlight follows:

THE DIRECTOR OF THE BUREAU OF MINES  
Department of the Interior,  
Washington, D. C.

Subject: Investigation of the \_\_\_\_\_ electric lamp

DEAR SIR: We hereby make application for an investigation leading to the approval of our \_\_\_\_\_ lamp (or flashlight) under the provisions of Schedule 10C. Attached is a certified check for \_\_\_\_\_ dollars ( ) made payable to the Treasurer of the United States to cover the fee for the investigation.

A copy of this application, one set of drawings, one complete lamp, and a full set of instructions for operating the lamp are being sent to the Central Experiment Station, 4800 Forbes Street, Pittsburgh, Pa., marked "Attention of the electrical engineer."

Very truly yours,

(Signature of Applicant)

### 4. Fees Charged

The fees charged in connection with the investigation of lamps and flashlights are listed below. Manufacturers who desire to have their product investigated for permissibility, shall forward a bank draft or certified check covering the required fees, to Washington, D. C., with their letter of application. This shall be made payable to "Treasurer of the United States."

*Item 1.*—The fee for a complete investigation of a storage-battery lamp under this schedule is \$75. The fee for a complete investigation of a lamp using dry cells is \$65. A certified check for the proper amount should be submitted at the time the application is made.

The Bureau reserves the right to charge in amounts proportionate to the work involved in case an especially complicated design of lamp is submitted.

*Item 2.*—The fee for a partial investigation leading to the extension of an approval shall be proportional to the work involved. The applicant in this case will be advised of the amount of the deposit he should submit after an examination of the redesigned lamp has been made.

*Item 3.*—Extensions of approvals that do not require tests will be made without charge.

*Item 4.*—Tests to assist manufacturers in the development of electric lamps may be made upon request to the Director of the Bureau of Mines and will be

charged for in amounts proportionate to the work involved. The making of this class of tests shall, however, be optional with the Bureau.

### 5. Conditions governing investigations

1. One complete lamp, with assembly and detail drawings that show the construction of the lamp and the materials of which it is made, should be submitted at the time the application for investigation is made. This material should be sent prepaid to the Central Experiment Station, 4800 Forbes Street, Pittsburgh, Pa., marked "Attention of electrical engineer."

2. When the lamp has been inspected by the Bureau's engineers, the applicant will be notified as to the amount of material that will be required for the tests. He will also be notified of the date on which the tests will start and will be given an opportunity to witness the tests.

3. No one is to be present during the tests of the lamp except the necessary Bureau of Mines engineers, their assistants, representatives of the manufacturer, and such other persons as may be mutually agreed upon by the manufacturer and the Bureau.

4. Permissibility tests will not be made unless the lamp is complete and in a form that can be marketed.

5. The results of the tests shall be regarded as confidential by all present at the tests and shall not be made public in any way prior to the formal approval of the lamp by the Bureau of Mines.

6. No verbal report of approval or disapproval will be made to the applicant. Approval will be made only in writing by the Director of the Bureau of Mines. The applicant shall not be free to advertise the lamp as being permissible, or as having passed the tests, prior to receipt of formal notice of approval.

### 6. Requirements for Approval

#### I. General

The lamps shall be durable in construction, practical in operation, and suitable for the service for which they are designed and approved.

The intensity of light, distribution of light, and battery capacity shall be adequate for the use for which the lamp is intended.

Battery terminals and leads therefrom, as well as the battery gas vents, shall be designed to minimize corrosion of the electrical contacts.

Bulbs and other replacement parts of the lamps shall be adequately marked as a means of identification.

#### II. Specific Requirements

Two general classes of electric lamps are recognized in these requirements, namely: Class 1, those that are self-contained and easily carried by hand, and class 2, those that may or may not be self-contained and not so readily portable as the first class.

Class 1 includes hand lamps, signal lamps, inspection lamps, flashlights, and

animal lamps that are operated by small storage batteries or dry cells.

Class 2 includes lamps such as the pneumatic-electric types and large battery lamps.

#### (1) Class 1 Lamps:

*Protection against explosion hazards.*—Unless properly designed, class 1 lamps present two sources of probable explosion hazards: (1) Ignition of an explosive atmosphere by the heated filament of the bulb in case the bulb glass is accidentally broken, and (2) ignition by electric sparks or arcs from the battery or connections thereto. The Bureau, therefore, requires the following safeguards:

*A. Safety device.*—The lighting unit shall be provided with a safety device that will prevent the ignition of explosive mixtures of methane and air by the heated filament if the bulb glass surrounding the filament is broken.

*B. Safety device (protection).*—The design of the safety device and the housing which protects it shall be such that the action of the safety device is positive; yet the lamp shall not be too readily extinguished during normal service by the unnecessary operation of the device.

*C. Locks or seals.*—For lamps other than flashlights, all parts, such as bulb housing and battery container, through which access may be had to live terminals or contacts shall be adequately sealed or equipped with magnetic or other equally reliable locks to prevent opening by unauthorized persons. For flashlights, provision shall be made for sealing the battery container.

*D. Battery current restricted.*—Unless all current-carrying parts, including conductors, are adequately covered and protected by the sealed or locked compartments, the maximum possible current flow through that part shall be limited by battery design, or by an enclosed-type fuse inside the sealed or locked container, to values that will not produce sparks or arcs sufficient to ignite an explosive mixture of methane and air.

*Protection against bodily hazard.*—This hazard is chiefly due to the possible burning of the user by electrolyte spilled from the battery. The Bureau, therefore, requires that—

*A. Spilling of electrolyte.*—The lamp shall be so designed and constructed that when properly filled the battery will neither leak nor spill electrolyte under conditions of normal use. Lamps passing a laboratory spilling test will be considered satisfactory in this respect, contingent upon satisfactory performance in service.

*B. Corrosion of battery container.*—The material of which the container is made shall resist corrosion under conditions of normal use.

#### (2) Class 2 Lamps:

*Safety.*—Unless special features of the lamp prevent ignition of explosive mixtures of methane and air by the broken bulb or other igniting sources within the

lamp, the bulb and all spark-producing parts must be enclosed in explosion-proof compartments.

Explosion-proof compartments will be tested while filled and surrounded with explosive mixtures of Pittsburgh natural gas<sup>1</sup> and air. A sufficient number of tests of each compartment will be made to prove that there is no danger of ignition of the mixture surrounding the lamp by explosions within the compartment. The lamp will not pass the above tests, even though the surrounding explosive mixtures are not ignited, if external flame is observed, if excessive pressures are developed, or if excessive distortion of any part of the compartment takes place.

Glass-enclosed parts of such compartments must be guarded and be of extra-heavy glass to withstand pick blows, and be adequately protected by shrouds or by an automatic cut-out that opens the lamp circuit if the enclosure is broken.

When an explosion-proof enclosure consists of two or more parts that are held together securely by bolts or some suitable means to permit assembly, the flanges comprising the joints between parts shall have surfaces with metal-to-metal contact, except enclosures requiring glass, in which case glass-to-metal joints are permitted. Gaskets, if adequate, may be used to obtain a firm seat for the glass, but not elsewhere. Rubber, putty, and plaster of Paris are not acceptable as material for gaskets. For enclosures having an unoccupied volume (air space) of more than 60 cubic inches the width of the joint measured along the shortest flame path from the inside to the outside of the enclosure shall not be less than 1 inch. When the unoccupied volume (air space) is less than 60 cubic inches, this path shall not be less than three-fourths inch.

*Locks and seals (lighting attachment).*—Explosion-proof compartments shall be equipped with seals or locks that prevent unauthorized and unsafe opening of the compartments in a mine.

*Locks or seals (battery).*—The battery shall be enclosed in a locked or sealed container that will prevent exposure of live terminals.

*Temperature of lamp.*—The temperature of the lamp under conditions of use shall not be such that a person may be burned in handling it.

*Cable and connection.*—(a) The cable or cord connecting the lamp to its battery shall be of high-grade design and materials, comparable to the specially recommended trailing cables as listed by the Bureau and shall be not more than 15 feet in length.

(b) The cable (or cord) shall be adequately protected at the battery end by a fuse in the locked battery box or housing. The cable (or cord) and the fuse shall be considered parts of the lamp, and

specifications for them shall be submitted by the lamp manufacturer.

(c) The method of terminating the cable (or cord) at the lamp and at the battery housing shall be adequate, but in no case shall the cable or cord be detachable.

The Bureau reserves the right to make minor changes in the requirements outlined in paragraphs (a), (b), and (c), as experience and service prove to be necessary in the interests of safety.

### III. Tests (Class 1 and 2 lamps)

Such tests will be made as are necessary to prove the adequacy of a lamp or any of its parts in fulfilling the purposes for which it was designed. These tests include the following:

(a) Safety tests, including tests of safety devices, electrical contacts, and explosion-proof features.

(b) Photometric tests.

(c) Tests to demonstrate adequacy of mechanical strength.

(d) Tests of nonspilling features (storage-battery lamps of class 1).

(e) Temperature tests.

### 7. Material Required for Bureau of Mines Records

In order that the Bureau may know exactly what it has tested and approved, detailed records are kept covering each investigation. These include drawings and actual equipment, as follows:

*Drawings.*—The original drawings submitted with the application for the tests and the final drawings which the manufacturer must submit to the Bureau before approval is granted, to show the details of the lamp as approved. These drawings are used to identify the lamp and its parts in the approval and as a means of checking the future commercial product of the manufacturer.

*Equipment.*—If the Bureau so desires, parts of the lamps that are used in the tests will be retained as a permanent record of the investigation and of the lamps submitted.

If the lamp is approved, the Bureau will require the manufacturer, as soon as his first manufactured lamps are available, to submit one complete lamp, with the approval plate attached, as a record of his commercial product.

### 8. How Approvals Are Granted

All approvals are granted through the Director's office at Washington, D. C. A lamp will be approved under this schedule only when the testing engineers judge that the lamp has met the requirements of the schedule and after the Bureau's records concerning the lamp are complete, including manufacturer's drawings that show the lamp as it is to be made commercially. No verbal reports of the Bureau's decision concerning the investigation will be given, and no informal approvals will be granted.

As soon as the manufacturer has received the formal approval he shall be free to advertise his lamp as permissible.

### 9. Wording, Purpose, and Use of Approval Plate

*Approval plate.*—The manufacturer shall attach, stamp, or mold an approval plate on the battery container or housing of each permissible lamp. The plate shall bear the seal of the Bureau of Mines, and be inscribed as follows: "Permissible \_\_\_\_\_ Lamp. Approval No. \_\_\_\_\_ issued to the \_\_\_\_\_ Company." When deemed necessary, an appropriate caution statement shall be added. The size, material, and position of the approval plate shall be satisfactory to the Bureau.

*Purpose of approval plate.*—The approval plate is a label that identifies the lamp so that anyone can tell at a glance whether or not the lamp is of the permissible type. By it the manufacturer can point out that his lamp complies with specifications of the Bureau of Mines and that it has been adjudged safe for use in gassy and dusty mines.

*Use of approval plate.*—Permission to place the Bureau's approval plate on his lamp obligates the manufacturer to maintain the quality of his product and to see that each lamp is constructed according to the drawings that have been accepted by the Bureau for this lamp and are in the Bureau's files. Lamps exhibiting changes in design that have not been approved are not permissible lamps and must not bear the Bureau's approval plate.

*Withdrawal of approval.*—The Bureau reserves the right to rescind for cause at any time any approval granted under this schedule.

### 10. Instructions for Handling Future Changes in Lamp Design

All approvals are granted with the understanding that the manufacturer will make his lamp according to the drawings that he has submitted to the Bureau and that have been considered and included in the approval. Therefore, when he desires to make any change in the design of the lamp, he should first of all obtain an extension of the original approval to cover the change. The procedure is as follows:

1. The manufacturer shall write to the Director of the Bureau of Mines at Washington, D. C., requesting an extension of his original approval and describing the change or changes proposed. He should send a copy of the letter, a revised drawing showing the change in detail, and one of each of the lamp parts affected to the Central Experiment Station, 4800 Forbes Street, Pittsburgh, Pa., marked "Attention of the electrical engineer."

2. The Bureau will consider the application and inspect the drawings and parts to determine whether it will be necessary to make any tests.

3. If no tests are necessary, the applicant will be advised of the acceptance or rejection of the proposed change through the Director's office.

4. If tests are judged necessary, the applicant will be advised of the mate-

<sup>1</sup> Investigation has shown that for practical purposes Pittsburgh natural gas (containing a high percentage of methane) is a satisfactory substitute for pure methane.

rial that will be required and of the necessary deposit to cover the fee for the test.

JOHN W. FINCH,  
Director.

Approved, May 17, 1938.

E. K. BURLEW,  
*Acting Secretary of the Interior.*

[F. R. Doc. 38-1818; Filed, June 25, 1938;  
10:02 a. m.]

## TITLE 31—MONEY AND FINANCE: TREASURY

### ACCOUNTS AND DEPOSITS

[1938—Department Circular No. 570  
Revised.<sup>1</sup>]

### CORPORATIONS ACCEPTABLE AS SURETIES ON FEDERAL BONDS

JUNE 21, 1938.

The following is a list of companies, as of May 1, 1938, holding certificates of authority from the Secretary of the Treasury, issued under the Acts of Congress of August 13, 1894 (28 Stat. 279), and March 23, 1910 (36 Stat. 241), as acceptable sureties on Federal bonds; this list also includes acceptable reinsurance companies under Department Circular No. 297, dated July 5, 1922, as amended. Further details including the amount of underwriting limitation of each company, as well as the extent and localities with respect to which they are acceptable as sureties on Federal bonds may be found at any time by reference to the current issue of Treasury Department Form 356, copies of which may be procured from the Treasury Department, Section of Surety Bonds, Washington, D. C.

*Names of companies, locations of principal executive offices, and States in which incorporated.*

#### California

1. Associated Indemnity Corporation, San Francisco.
2. Fireman's Fund Indemnity Co., San Francisco.
3. National Automobile Insurance Co., Los Angeles.
4. Occidental Indemnity Co., San Francisco.
5. Pacific Indemnity Co., Los Angeles.

#### Connecticut

6. The Aetna Casualty and Surety Co., Hartford.
7. The Century Indemnity Co., Hartford.
8. Hartford Accident and Indemnity Co., Hartford.

#### Delaware

9. Mellonbank Surety Corporation, Pittsburgh, Pa.
10. Saint Paul-Mercury Indemnity Co. of St. Paul, Minn.

#### Illinois

11. American Motorists Insurance Co., Chicago.

#### Indiana

12. Continental Casualty Co., Chicago, Ill.
13. Inland Bonding Co., South Bend.

<sup>1</sup> F. R. 1515.

<p><i>Kansas</i></p> <p>14. The Kansas Bankers Surety Co., Topeka.</p> <p>15. The Western Casualty and Surety Co., Fort Scott.</p> <p><i>Maryland</i></p> <p>16. American Bonding Co. of Baltimore.</p> <p>17. Fidelity and Deposit Co. of Maryland, Baltimore.</p> <p>18. Maryland Casualty Co., Baltimore.</p> <p>19. United States Fidelity and Guaranty Co., Baltimore.</p> <p><i>Massachusetts</i></p> <p>20. American Employers' Insurance Co., Boston.</p> <p>21. Massachusetts Bonding and Insurance Co., Boston.</p> <p><i>Michigan</i></p> <p>22. National Casualty Co., Detroit.</p> <p>23. Standard Accident Insurance Co., Detroit.</p> <p><i>Missouri</i></p> <p>24. Central Surety &amp; Insurance Corporation, Kansas City.</p> <p>25. Employers Reinsurance Corporation, Kansas City.</p> <p><i>New Hampshire</i></p> <p>26. Peerless Casualty Co., Keene.</p> <p><i>New Jersey</i></p> <p>27. Commercial Casualty Insurance Co., Newark.</p> <p>28. The Excess Insurance Co. of America, New York, N. Y.</p> <p>29. International Fidelity Insurance Co., Jersey City.</p> <p><i>New York</i></p> <p>30. American Re-Insurance Co., New York.</p> <p>31. American Surety Co. of New York.</p> <p>32. Columbia Casualty Co., New York.</p> <p>33. Eagle Indemnity Co., New York.</p> <p>34. The Fidelity and Casualty Co. of New York.</p> <p>35. General Reinsurance Corporation, New York.</p> <p>36. Glens Falls Indemnity Co., Glens Falls.</p> <p>37. Globe Indemnity Co., New York.</p> <p>38. Great American Indemnity Co., New York.</p> <p>39. The Home Indemnity Co., New York.</p> <p>40. London &amp; Lancashire Indemnity Co. of America, Hartford, Conn.</p> <p>41. Merchants Indemnity Corporation of New York.</p> <p>42. The Metropolitan Casualty Insurance Co. of New York, Newark, N. J.</p> <p>43. National Surety Corporation, New York.</p> <p>44. New Amsterdam Casualty Co., Baltimore, Md.</p> <p>45. New York Casualty Co., New York.</p> <p>46. The Preferred Accident Insurance Co. of New York.</p> <p>47. Royal Indemnity Co., New York.</p> <p>48. Seaboard Surety Co., New York.</p> <p>49. Standard Surety and Casualty Co. of New York.</p> <p>50. Sun Indemnity Co. of New York.</p> <p>51. United States Casualty Co., New York.</p> <p>52. United States Guarantee Co., New York.</p> <p>53. The Yorkshire Indemnity Co. of New York.</p> <p><i>Ohio</i></p> <p>54. The Ohio Casualty Insurance Co., Hamilton.</p> <p><i>Pennsylvania</i></p> <p>55. Eureka Casualty Co., Philadelphia.</p> <p>56. Indemnity Insurance Co. of North America, Philadelphia.</p> <p><i>South Dakota</i></p> <p>57. Western Surety Co., Sioux Falls.</p> <p><i>Texas</i></p> <p>58. American General Insurance Co., Houston.</p> <p>59. American Indemnity Co., Galveston.</p> <p>60. Commercial Standard Insurance Co., Fort Worth.</p>	<p>61. Employers Casualty Co., Dallas.</p> <p>62. Texas Indemnity Insurance Co., Galveston.</p> <p>63. Trinity Universal Insurance Co., Dallas.</p> <p><i>Virginia</i></p> <p>64. Virginia Surety Co., Inc., Roanoke.</p> <p><i>Washington</i></p> <p>65. General Casualty Co. of America, Seattle.</p> <p>66. Northwest Casualty Co., Seattle.</p> <p>67. United Pacific Insurance Co., Seattle.</p> <p><i>Foreign Companies Authorized To Do a Reinsurance Business Only</i></p> <p>68. Accident and Casualty Insurance Co. of Winterthur, Switzerland (U. S. Office, New York, N. Y.)</p> <p>69. The Employers' Liability Assurance Corp., Ltd., London, England (U. S. Office, Boston, Mass.).</p> <p>70. The European General Reinsurance Co., Ltd., London, England (U. S. Office, New York, N. Y.).</p> <p>71. The Guarantee Co. of North America, Montreal, Canada (U. S. Office, New York, N. Y.).</p> <p>72. London Guarantee and Accident Co., Ltd., London, England (U. S. Office, New York, N. Y.).</p> <p>73. The Ocean Accident and Guarantee Corp., Ltd., London, England (U. S. Office, New York, N. Y.).</p> <p>[SEAL] STEPHEN B. GIBBONS, <i>Acting Secretary of the Treasury.</i></p> <p>[F. R. Doc. 38-1822; Filed, June 25, 1938; 11:01 a. m.]</p>
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[1938—Department Circular No. 586]

BONDS EXECUTED BY THE BANKERS INDEMNITY INSURANCE COMPANY OF NEWARK, NEW JERSEY, IN FAVOR OF THE UNITED STATES

JUNE 21, 1938.

To the Heads of Departments and Independent Establishments of the Government, Bond-Approving Officers, and Others Concerned:

The Bankers Indemnity Insurance Company of Newark, New Jersey, was authorized by the Treasury, effective March 16, 1929, to qualify as sole surety on recognizances, stipulations, bonds and all other undertakings permitted or required by the laws of the United States to be given with one or more sureties, as provided by the Act of Congress approved August 13, 1894, as amended by the Act of March 23, 1910 (U. S. C., Title 6, Sections 6 to 13). The company, because of particular business reasons, by resolution of its Board of Directors dated August 18, 1931, discontinued writing fidelity and surety business, and ceased writing bonds in favor of the United States, and has now requested permission of the Treasury to voluntarily withdraw from transacting any further business in favor of the United States. In accordance with the company's request, the certificate of authority issued by the Secretary of the Treasury to the company to act as an acceptable surety on obligations in favor of the United States expired on April 30, 1938, and was not renewed.

The provisions of the Act of Congress approved August 13, 1894, as amended, contemplate a constant supervision by

the Treasury of all companies acting as sureties on Federal bonds. The Bankers Indemnity Insurance Company, therefore, entered into a reinsurance agreement with The European General Reinsurance Company, Limited, of London, England, with executive offices in New York, N. Y., dated June 6, 1938, under the terms and conditions of which The European General Reinsurance Company, Limited, reinsured, effective at and from 12:01 A. M., May 1, 1938, all the unexpired and unmatured fidelity and surety bonds or obligations of the Bankers Indemnity Insurance Company in favor of the United States of America and/or any wholly owned corporation thereof and/or the District of Columbia and all bonds or obligations naming as obligee officers or employees of the United States of America and/or any wholly owned corporation thereof and/or the District of Columbia, and accepted liability for all claims incurred on or after 12:01 A. M., May 1, 1938, in connection with such business.

The Bankers Indemnity Insurance Company of Newark, New Jersey is actively engaged in the transaction of business. Therefore, all administrative matters in connection with its bonds or other obligations in favor of the United States should continue to be transacted direct with the company.

The Treasury has obtained from The European General Reinsurance Company, Limited, a separate indemnifying agreement, dated June 6, 1938, whereby in consideration of the acceptance by the United States of America of The European General Reinsurance Company, Limited as reinsurer on such bonds, undertakings or other forms of obligations heretofore executed or assumed by the Bankers Indemnity Insurance Company, and allowing such bonds, undertakings, or obligations to be continued in force with the Bankers Indemnity Insurance Company without requiring principals to take out fresh bonds. The European General Reinsurance Company, Limited, agrees to assume and it does assume the liability for any losses and claims under or in connection with any bond, undertaking, or other form of obligation entered into and assumed by the Bankers Indemnity Insurance Company and reinsured by The European General Reinsurance Company, Limited, in which the United States of America has or may have an interest direct or indirect, except such losses as to which claims or notices of claims have been duly filed with the Bankers Indemnity Insurance Company on or before 12:01 A. M. May 1, 1938, it being expressly understood and agreed by The European General Reinsurance Company, Limited, that the purpose and intent of such agreement is to afford the United States of America complete and strengthening security and to indemnify and protect it against any and all losses that have arisen or may

arise under or in connection with any and all bonds, undertakings, or obligations of the Bankers Indemnity Insurance Company as sole surety or co-surety, insurer, co-insurer or reinsurer, upon which the United States of America is or may become entitled to make demand or institute proceedings, and which may have been executed by the Bankers Indemnity Insurance Company on or before April 30, 1938, the date on which its authority to act as an acceptable surety on bonds or obligations in favor of the United States expired, except such losses as to which claims or notices of claims have been duly filed with the Bankers Indemnity Insurance Company on or before 12:01 A. M. May 1, 1938.

The aforesaid indemnifying agreement also provides that all persons who have supplied labor and/or materials in the prosecution of the work contemplated by any contract for the security of which a bond has been given to the United States of America with the Bankers Indemnity Insurance Company as sole or co-surety, and covered by the reinsurance agreement referred to above, shall have the same rights and equities against The European General Reinsurance Company, Limited, to sue and recover in the name of the United States of America, as such persons would have under the provisions of existing law against the Bankers Indemnity Insurance Company on account of its said bonds and obligations.

The agreement further provides that The European General Reinsurance Company, Limited, shall be subject to legal process for the purpose of all suits by the United States of America on account of said bonds, or undertakings and obligations included in the reinsurance agreement referred to, and, in the name of the United States of America for their use, by such persons furnishing materials and/or labor as aforesaid, under the provisions of existing law and on account of said bonds, obligations and undertakings, through the acceptance of service and entry of appearance by its duly appointed agents for such purpose in any judicial district of the United States as provided by law.

[SEAL] STEPHEN B. GIBBONS,  
Acting Secretary of the Treasury.

[F. R. Doc. 38-1823; Filed, June 25, 1938;  
11:01 a. m.]

## TITLE 43—PUBLIC LANDS DIVISION OF GRAZING THE FEDERAL RANGE CODE SUPPLEMENTARY RULES

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*Rules for the Administration of Grazing Districts Under the Act of June 28, 1934 (48 Stat. 1269), as Amended by the Act of June 26, 1936 (49 Stat. 1976), Commonly Known as the Taylor Grazing Act*

[Note.—That part of the Federal Range Code approved March 16, 1938,<sup>1</sup> superseded the compiled Rules for the Administration of Grazing Districts, as approved June 14, 1937, as far as the heading "Fees", on page 3 thereof. The following rules supersede the remainder of the compiled rules of June 14, 1937, and constitute a continuation and completion of the Federal Range Code.]

**SEC. 8. Fees; time of payment; refunds.**—

**PAR. a. Free-use licenses and permits.**—No fee will be charged for the issuance of a free-use license or permit.

**PAR. b. Regular licenses and permits.**—A grazing fee of five cents per head for cattle and horses, and one cent per head for sheep and goats will be charged each regular license or permittee for each month of the grazing period covered by the license or permit, provided that a different fee may be charged in any district or unit thereof in which the carrying capacity of Federal range is increased by reason of the addition of land not owned by the United States or by reason of a cooperative agreement or memorandum of understanding between the Division of Grazing and any other governmental agency, State or Federal, or any person, association or corporation. When the grazing period involves a fraction of a month, the fees for such fraction will be prorated on the basis of a 30-day month. All livestock six months of age or over and allowed on the Federal range will be counted, at any point of time during the grazing period, as a part of the total number for which a license or permit has been issued.

**PAR. c. Nonuse licenses and permits.**—No fee will be charged for the issuance of a nonuse license or permit.

**PAR. d. Crossing permits.**—A fee of one-fourth of a cent per head per day, for cattle and horses, and one-twentieth of a cent per head per day, for sheep and goats, will be charged for a crossing permit, which will be issued upon application by any person showing the necessity of crossing the Federal range for proper and lawful purposes, except that no fee will be charged for a crossing permit to the extent that it involves the use of a stock driveway established under section 10 of the act of December 29, 1916 (39 Stat. 862), or a limited and defined trail.

**PAR. e. Payment of fees.**—All fees for crossing permits, and all fees for regular licenses or permits which total \$10 or less or which are for a period of three months or less, shall be paid in full at the time of issuance of the license or permit. Fees for other regular licenses or permits may be paid in two annual installments, each

of which must be paid before the license or permit will be effective for the portion of the grazing period covered by the particular installment. No license or permit shall be issued or renewed until payment of any amounts due as grazing fees has been made. Upon application by a transferee of any property or part thereof on the basis of which a license or permit has been issued, a new form of license representing that part of the grazing privileges to which he may thereby become entitled will be issued to him upon payment of his proportionate part of any unpaid installment of fees then due.

**PAR. f. Refunds.**—No refund of fees properly paid will be made because of a failure to use the grazing privileges, either in whole or in part, represented by a license or permit, except that during periods of range depletion due to severe drought or other natural causes or in case of a general epidemic of disease during the life of a license or permit, the Secretary of the Interior will in his discretion remit, refund, reduce in whole or in part, or postpone the payment of fees for such depletion period as long as the emergency exists. When fees have been paid which are not required by law, or in excess of lawful requirements, an application for refund may be made under the provisions of the act of June 27, 1930 (46 Stat. 822).

**SEC. 9. Procedure in applications, hearings and appeals.**—

**PAR. a. Consideration of application; recommendation; service of notice.**—An application for a grazing license or permit will be considered in the first instance by the advisory board of the district in which it is sought. The advisory board will make its recommendation to the Division of Grazing. If such recommendation is favorable, the Division will so notify the applicant by ordinary mail. If the recommendation is to any extent adverse, notice thereof will be served on the applicant personally either by the regional grazier or such person as may have been designated by him or by registered letter sent to the address given by the applicant in his application. The notice given to the particular applicant will advise him of his privilege to file an appeal to an examiner of the Division of Grazing. The appeal must be filed in the local office of the Division of Grazing within fifteen days following the receipt of the notice. The appeal shall be accompanied by specifications of error setting forth in a clear and concise manner the matter upon which it is based. Any party or parties who would be directly affected by the decision in the appeal may file a request for permission to be heard in the appeal and shall serve the appellant with a copy of such request. Such a party shall be known and designated as an intervener. Where separate appeals are filed and the issue or issues involved are common to both appeals, the appeals may be heard at the same hearing.

**PAR. b. Hearing of protests; reconsideration by advisory board; service of notice.**—At the dates and places fixed for hearing protests any party may appear, either in person or by attorney or other representative, or may file a written protest with the advisory board, which thereupon will reconsider its previous recommendation in the light of the protest and make a final recommendation to the Division of Grazing. If such recommendation is favorable to the applicant, the Division will so notify him by ordinary mail. If the recommendation is to any extent adverse, notice thereof will be served on the applicant either personally by the regional grazier or such person as may have been designated by him or by registered letter sent to the address given by the applicant in his application. The notice given to the particular applicant will advise him of his privilege to file an appeal to an examiner of the Division of Grazing. The appeal must be filed in the local office of the Division of Grazing within fifteen days following the receipt of the notice. The appeal shall be accompanied by specifications of error setting forth in a clear and concise manner the matter upon which it is based. Any party or parties who would be directly affected by the decision in the appeal may file a request for permission to be heard in the appeal and shall serve the appellant with a copy of such request. Such a party shall be known and designated as an intervener. Where separate appeals are filed and the issue or issues involved are common to both appeals, the appeals may be heard at the same hearing.

as may have been designated by him, or by registered letter sent to the address given by the applicant in his application, and will contain the regional grazier's action thereon as provided in the next section.

**PAR. c. Allowance or rejection of application by the regional grazier; modification; service of notice; appeal to examiner; intervention.**—The regional grazier is vested with authority, in the light of all facts and circumstances, to issue or refuse to issue a grazing license or permit. If a grazing license or permit is refused or if the action of the regional grazier is to any extent adverse to the applicant, a notice including a recital of the specific reasons for the action taken will be served on the applicant either personally by the regional grazier or such person as may have been designated by him or by registered letter sent to the address given by the applicant in his application. If the action taken by the regional grazier on any application is substantially different from that recommended by the advisory board, a notice including a recital of the specific reasons for the action taken will be served on any other applicant or applicants affected by such action, either personally by the regional grazier or such person as may have been designated by him or by registered letter sent to the address given by the applicant in his application. The notice given to the particular applicant will advise him of his privilege to file an appeal to an examiner of the Division of Grazing. The appeal must be filed in the local office of the Division of Grazing within fifteen days following the receipt of the notice. The appeal shall be accompanied by specifications of error setting forth in a clear and concise manner the matter upon which it is based. Any party or parties who would be directly affected by the decision in the appeal may file a request for permission to be heard in the appeal and shall serve the appellant with a copy of such request. Such a party shall be known and designated as an intervener. Where separate appeals are filed and the issue or issues involved are common to both appeals, the appeals may be heard at the same hearing.

**PAR. d. Fixing of place and date for hearing before examiner on appeal; notice.**—Upon the filing of the appeal and specifications of error, the regional grazier will notify the Chief Examiner, naming a place within or near the district at which a hearing will be held. The Chief Examiner will then advise the regional grazier of the date of hearing, which shall be not less than ten days after the date of the filing of the appeal, and the regional grazier thereupon will notify the applicant and all interveners then of record of the time and place of hearing, which will be held by one of such representatives of the Division of Grazing as may have been designated by the Secretary of the Interior to conduct hearings. Such representative,

<sup>1</sup> 3 F.R. 705 (DI).

however, shall be one other than the regional grazier from whose decision the appeal is taken. For the purpose of the hearing, such representative of the Division of Grazing shall be known and designated as an examiner.

**PAR. e. Authority of Examiner.**—The examiner is vested with general authority to conduct the hearing in an orderly and judicial manner, including authority to subpoena witnesses and to administer oaths, to call and question witnesses and to make findings of fact and a decision.

**PAR. f. Conduct of hearing before examiner.**—The appellant, the regional grazier, and recognized interveners will stipulate as far as possible all material facts and the issue or issues involved. The examiner will state any other issues on which he may wish to have evidence presented and issues which clearly appear to be unnecessary to a proper disposition of the case will be excluded, provided that the party asserting such an issue may state briefly for the record the substance of the proof which otherwise would be offered in support of the issue. The regional grazier, or his representative, will then state the grounds of the decision from which the appeal has been taken, together with such explanation as may be deemed necessary, and may call and examine witnesses on the issues involved. Upon the conclusion of this testimony the appellant shall present his case, following which recognized intervenors may present evidence if such a presentation appears to the examiner to be necessary for a proper disposition of the matters in controversy. All oral testimony shall be under oath, and witnesses will be subject to cross-examination by any party. The examiner will himself question any witness whenever it appears necessary. Documentary evidence will be received by the examiner and made a part of the record, if pertinent to any issue, or may be entered by stipulation. Objections to evidence will be ruled upon by the examiner and exceptions duly noted, and such exceptions will be considered upon an appeal from the decision of the examiner. In noting an exception to a ruling sustaining an objection to the admission of evidence, the party affected may insert in the record, as a tender of proof, a summary written statement of the substance of the excluded evidence. The examiner will summarily stop examination and exclude testimony which is obviously irrelevant and immaterial.

**PAR. g. Witness fees.**—Under the subpoena issued a witness will be entitled to a witness fee of \$1.50 per day, plus \$0.05 per mile for miles actually traveled from his home to the place of hearing and return. Witnesses who attend hearings so far removed from their residences as to prohibit return thereto from day to day are allowed a per diem of \$3.00 for expenses of subsistence for each day of actual attendance and for

each day necessarily occupied in traveling to attend hearings and return home. The allowances for witness fees, mileage and subsistence are prescribed by the act of April 26, 1925 (44 Stat. 323), as modified and amended by the Economy Act of June 30, 1932 (47 Stat. 413), and the act of May 15, 1936 (49 Stat. 1331). Under the act of January 31, 1903 (32 Stat. 790), providing for issuance of the subpoena, a witness cannot be compelled to appear outside of his own county, and if he does so appear, can claim mileage in but one county, that is, the county of his residence. Claims for witness fees and mileage will be presented on Form No. 1-327, properly certified by the regional grazier and submitted in the usual way for payment.

**PAR. h. Findings of fact and decision by examiner; notice; submittal to Secretary of the Interior.**—Within ten days following the conclusion of the hearing the examiner will make findings of fact and render a decision, which shall become a part of the record in any appeal, and a copy of which shall be sent by registered mail to the appellant and all interveners, provided, however, that the examiner may, before promulgating a decision, submit it to the Secretary of the Interior for consideration. Upon approval by the Secretary it shall constitute the decision of the Department, without prejudice to the right of any party affected to be furnished with a copy of the transcript of testimony, as provided in the next paragraph, and to request reconsideration of the decision under the Rules of Practice of the Department.

**PAR. i. Notice of appeal; furnishing copies of record.**—Within ten days after the receipt of the decision of the examiner any party desiring to appeal to the Secretary of the Interior shall file a written notice of his intention to appeal and may request a copy of the transcript of testimony. Copies of the transcript will be furnished to the appellant and to the interveners, at a charge of 5 cents per folio, except that upon a sufficient showing to the examiner, supported by an affidavit, that an appellant or intervenor is financially unable to pay such fee, a copy will be furnished him without charge. Notice of appeal and request for a copy of the transcript shall be filed in the office of the Chief Examiner, Division of Grazing, Department of the Interior, Salt Lake City, Utah.

**PAR. j. Decision in effect pending appeal.**—Pending an appeal to the examiner and determination thereof, the decision of the regional grazier shall be in full force and effect. Pending an appeal from the examiner to the Secretary of the Interior and determination thereof, the decision of the examiner shall be in full force and effect. Any action taken by the regional grazier pursuant to the examiner's decision shall be subject to modification or revocation by the Secre-

tary upon an appeal from the decision of the examiner.

**PAR. k. Appeals to the Secretary of the Interior.**—An appeal from the decision of the examiner to the Secretary of the Interior shall be filed, together with any brief desired in support thereof, within thirty days after date of receipt of the transcript of testimony, or, in the event the transcript of testimony is not requested, such appeal shall be filed within thirty days after receipt of the examiner's decision, in the office of the Chief Examiner, Division of Grazing, Department of the Interior, Salt Lake City, Utah. The appeal in other respects shall be made in accordance with the Rules of Practice of the Department of the Interior in effect at the time such appeal is taken.

**SEC. 10. General rules of the range.**

**PAR. a. Acts prohibited.**—The following acts are prohibited on the Federal range:

(1) Grazing livestock upon or driving livestock across the Federal range, including stock driveways, without an appropriate license or permit, whether regular or free-use, or a crossing permit.

(2) Grazing livestock upon or driving livestock across the Federal range, including stock driveways, in violation of the terms of a license or a permit, either by exceeding the number of livestock permitted, or by allowing livestock to be on the Federal range in an area or at a time different from that designated, or in any other manner.

(3) Allowing livestock to drift and to graze on Federal range, including stock driveways, without a license or a permit, either regular or free-use.

(4) Constructing or maintaining any kind of improvements, structures, fences, or enclosures on the Federal range, including stock driveways, without authority of law or a permit.

(5) Destroying, molesting, disturbing, or injuring property used or acquired for use by the United States in the administration of Federal range, including stock driveways, or improvements constructed or maintained under section 4 of the act.

(6) Cutting or removing vegetative cover, brush, woodland growth or timber for any purpose, except as authorized by law.

**PAR. b. Rules of fair range practice.**—The following rules of fair range practice shall be complied with by all licensees and permittees, both regular and free-use:

(1) The provisions of statutory law of any State in which grazing districts are located with reference to the number and kind of bulls permitted on land which is Federal range, the branding of livestock, and sanitary requirements, are hereby incorporated as a part of these rules and all licensees and permittees shall comply with the provisions in effect in the State or States in which any part of the grazing district or districts in which their

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licenses or permits are to be effective are located.

(2) A crossing permittee shall follow the route prescribed in the crossing permit at an average rate of not less than five miles per day for sheep or goats, and ten miles per day for cattle or horses.

*SEC. 11. Procedure for enforcement of rules and regulations.—*

*PAR. a. Service of notice; report of violations.*—Whenever it appears that there has been any willful violation of any provision of the act or of the Federal Range Code, the regional grazier shall cause the alleged violator to be served with a written notice, which shall set forth the act or acts constituting such violation and in which reference shall be made to the provision or provisions of the act or the Federal Range Code alleged to have been violated. Such notice may be served in person or by registered mail and the affidavit of the person making personal service or the registry receipt shall be preserved. Any violation of the act or the Federal Range Code shall be reported immediately to the Division of Investigations, Department of the Interior.

*PAR. b. Unlawful grazing on Federal range; removal of livestock; impoundment; liability.*—Whenever the charge consists of unlawfully grazing livestock on the Federal range, the notice served on the alleged violator will order him to remove the livestock or to cause them to be removed immediately or within such reasonable time as may be specified. If the alleged violator fails to comply with the notice the regional grazier shall forthwith issue a written order addressed to any grazier or other person designated by him, directing such person to remove the livestock from the area in which they are unlawfully grazing. Proper care will be exercised in such removal, which will be accomplished in the following manner:

(1) If the owner of the livestock has a license or permit which is then effective in any area, the number of livestock for which such license or permit has been issued will be removed to such area. Any livestock not covered by the license or permit will be removed either to land controlled by the licensee or permittee or will be impounded, in the manner hereinafter provided.

(2) If the owner of the livestock has no license or permit then in effect but controls land within or near the district, the livestock will be removed to such land.

(3) If in emergency the foregoing procedure is impossible or impracticable, or if resort by the United States to the particular local statutory procedure for the exercise of its right as a proprietor is impracticable, ineffective, or will entail delay, or if for any reason whatever the adequate protection of its property requires that the livestock be removed immediately from the Federal range, the regional grazier may order that the livestock be impounded. Writ-

ten notice of the impoundment will be given to the owner or any other interested person, if known. Such notice will assert a lien in favor of the United States for a certain amount of damages incurred and the reasonable expense of driving, handling and feeding from the time of impoundment. Such notice shall be given also by posting in at least three conspicuous public places within the county in which the livestock were found unlawfully grazing. Upon payment of the amounts claimed the lien will be released and the livestock delivered to the owner or other person showing a right to their possession. In the event that payment of such amounts to discharge the lien is not made, then it shall be foreclosed in accordance with the law of the State in which the livestock have been impounded.

Neither the removal of livestock from unlawful grazing nor the foreclosure of a lien by the United States will relieve the alleged violator of civil liability for damages, except to the extent that its claim may have been satisfied through a foreclosure, and in neither case will the alleged violator be relieved of criminal prosecution.

*PAR. c. Amicable settlement of civil cases involving damage to Government property.*—Any offer of settlement for damage to Federal range or to other property of the United States resulting from an alleged violation of any provision of the act or of the Federal Range Code shall be transmitted by the regional grazier, with his recommendation, to the Department for consideration. An offer of settlement will not constitute satisfaction of civil liability for the damage involved until finally accepted by the United States and will in no event relieve the violator of criminal prosecution.

*PAR. d. Disciplinary action for violations.*—The regional grazier is authorized to reduce or revoke a grazing license or permit or to deny renewal thereof for a clearly established violation of the terms or conditions of the license or permit or for a violation of any of the provisions of the Federal Range Code. Before any license or permit is reduced or revoked, or renewal thereof denied, because of such a violation, however, the regional grazier shall cause the licensee or permittee to be served with a written notice which shall set forth the act or acts constituting the violation and the amount of damage resulting therefrom. Such notice also shall refer to the terms or conditions of the license or permit or to the provision or provisions of the Federal Range Code alleged to have been violated. The notice shall cite the licensee or permittee to appear before an examiner of the Division of Grazing at a designated time and place to show cause why his license or permit should not be reduced or revoked and satisfaction of damages made. The notice may be served in person or by registered mail and the affidavit of the person making

personal service or the registry receipt shall be preserved.

The hearing before the examiner upon the order to show cause will be conducted in so far as practicable in the same manner as other hearings before an examiner. The licensee or permittee may appear in his own behalf or by counsel. The evidence shall be confined to the commission of the acts charged and the amount of damage due the United States. If upon the hearing of the order to show cause the violation with which the licensee or permittee is charged is established to the satisfaction of the examiner, he will make a finding of the amount of damages, in writing, and will direct the regional grazier to reduce or revoke the license or the permit, as the facts may warrant, provided that if the licensee or permittee makes an offer of settlement which appears reasonable and satisfactory to the examiner, he will, except in cases of flagrant or repeated violation, withhold such direction and will order the regional grazier to transmit such offer of settlement to the Department for consideration.

Upon the failure of the person served in the notice to appear at the time and place designated in the notice, and in the absence of a good and sufficient showing to the examiner of the reason for his failure to appear, the examiner may direct the regional grazier to reduce or revoke the license or permit, as the violations charged in the notice and the amount of damages alleged may warrant.

No license or permit shall be issued or renewed until payment of any amounts found by the examiner to be due the United States as damages under this section has been offered, and until payment of any amounts due as grazing fees has been made.

The decision of the examiner on any matters in this section shall be final unless an appeal is taken within 15 days to the Director of Grazing, whose decision likewise shall be final unless an appeal is taken within 30 days to the Secretary of the Interior. Pending an appeal and final determination thereof the decision of the examiner or of the Director of Grazing, as the case may be, shall remain in full force and effect. Appeals to either the Director of Grazing or the Secretary of the Interior shall be filed in the office of the Director of Grazing, Washington, D. C.

*SEC. 12. District advisory boards.—*

*PAR. a. Authorization for establishment; number of members; qualifications.*—To assist the Director of Grazing in the performance of his duties, the establishment of an advisory board of local stockmen in each grazing district is authorized. The regional grazier will fix the number of members to be elected to each board in the region and may fix the number to be elected as representa-

tives of each class of stockmen, according to the kind of livestock owned, or the number to be elected from each voting precinct established by him, or both, provided that the free-use applicants or free-use licensees or permittees in each district will be entitled to one representative, who shall be a member of the class represented. All district advisors shall be elected in the manner hereinafter provided and, excepting free-use and wild life representatives, shall be electors qualified to vote at the particular election. If a district is divided into precincts, an advisor representing a precinct shall qualify in the precinct in the same manner as in the district.

**PAR. b. Elections—Time and place of holding; notice.**—An election of district advisors will be held in each grazing district within 90 days after the publication in the *FEDERAL REGISTER* of the order establishing the district, and annually thereafter. The regional grazier may divide the district into voting precincts and will designate a voting place within each district or precinct. Notice of the time and place or places of holding an election will be given by publication in one newspaper of general circulation in the district, by posting in the office of the regional grazier and in the office of each district grazier and by such posting in such other public places as may be necessary to give the matter proper publicity. No election shall be held to be invalid by reason of failure to give any of the foregoing notices unless it shall be made to appear that there was a failure to give substantial notice.

**PAR. c. Elections—Qualifications of electors.**—At the first election after the establishment of a grazing district only qualified applicants for grazing licenses or permits in such district shall be eligible to vote and at any subsequent election any person offering to vote shall be one of the following:

- (1) A regular licensee or permittee;
- (2) A free-use licensee or permittee;
- (3) A nonuse licensee or permittee;
- (4) Anyone having the personal qualifications of an applicant for a grazing license or permit and controlling land or water in any of the three classes of base property, provided that if such an elector has not been the holder of a license or permit for the preceding grazing season, he shall register his name with the representative of the Division of Grazing in charge of the election before voting begins.

An elector may vote in more than one district if so qualified. A minor may vote if otherwise qualified, provided that upon request by his natural or legal guardian his ballot may be cast by the guardian in the name of the minor. The judges at any election will be furnished by the representative of the Division of Grazing in charge with a list of all electors entitled to vote in the district. No one whose name does not appear on such list shall be allowed to vote, provided that

any one claiming to have been wrongfully omitted from the list may have his name placed thereon upon submitting two qualified electors' sworn statements of facts qualifying him as an elector.

**PAR. d. Elections—Judges; nominations; ballots; registration; challenges.**—

The representative of the Division of Grazing in charge of an election will choose three qualified electors to act as election judges. The electors present may then place in nomination the names of candidates, but ballots may be cast for any other person qualified to represent a particular class of precinct. Voting shall be only by ballots cast personally by qualified electors and proxies will not be recognized. No elector shall receive a ballot until he has registered by signing opposite his name on the list of persons entitled to vote. Before receiving a ballot any elector may be challenged by any other elector qualified to vote in the district and thereupon the judges, or any of them, may require the elector challenged to answer such questions concerning his qualifications as a voter as may be deemed necessary. Upon his failure or refusal to answer such questions satisfactorily, he shall not be permitted to register or to receive a ballot. Each candidate may designate any qualified elector to remain within the polling places during the casting and counting of votes and the declaration of the results thereof, and such person may act as a challenger. Before any elector shall be permitted to deposit his completed ballot in the ballot box, the judges shall write "Voted" opposite his signature on the registration list.

**PAR. e. Elections—Method of voting.**—

Only one ballot may be cast by the holder or holders of any one license or permit, whether regular, free-use or nonuse, or by a qualified elector or electors controlling any one base property. An elector eligible only for a free-use license or permit may cast a ballot for one free-use candidate only and for no other candidate. All other electors, regardless of the precincts in which they may reside or operate, each shall cast one ballot on which shall be written the name or names of the total number of candidates to be elected in the district as representatives of the class of owners of livestock to which the elector belongs, provided that if he belongs to more than one such class he shall vote only for the candidates of the class in which he predominates in numbers of livestock, on the basis of one cow being the equivalent of five sheep. If a certain number are to be elected from each precinct, no ballot shall include the names of more candidates from any one precinct than are to be elected therefrom.

**PAR. f. Elections—Close of polls; results; ties; judges' certificate.**—

Polling places shall remain open on the day of the election from 2:00 p. m. to 5:00 p. m., or until those present at 5:00 p. m. shall have voted. Upon the closing

of the polls the judges shall open the ballot box and count the votes. In case of a tie vote, a choice by lot shall be made by the judges in the presence of the tie candidates or of at least one representative designated by each such candidate for such purpose. As soon as the ballots have been counted, the judges shall make out a certificate of returns under their hands, stating the number of votes cast, the number of excess, unused or spoiled ballots, and, in both words and figures, the number of votes received by each candidate. The certificate, together with the ballots and the registration list of voters, shall be enclosed and sealed and forthwith delivered to the representative of the Division of Grazing in charge of the election.

**PAR. g. Appointment by Secretary of the Interior; oath and term of office; removal; vacancies.**—

No person elected as a district advisor may assume office until he has been appointed by the Secretary of the Interior and has taken an oath of office. Persons elected as district advisors at the first election after the organization of a grazing district shall be divided into three classes by lot by the regional grazier. Those in class 1 shall hold office for one year, those in class 2 for two years and those in class 3 for three years, and until their successors are elected and have qualified. Thereafter at each election the class whose term has expired shall be elected for a term of three years. The Secretary of the Interior may remove any district advisor from office for failure to discharge his duties or for the good of the service. Upon a vacancy occurring in the office of a district advisor by reason of resignation, removal or otherwise, the board shall recommend to the Secretary of the Interior the name of a person to fill the vacancy and such recommendations, together with that of the regional grazier, shall be transmitted by him to the Secretary for consideration. A person appointed by the Secretary to fill a vacancy shall hold office until the next regular election, when a successor shall be elected to serve for the remainder of the unexpired term, if any, of the member causing the vacancy.

**PAR. h. Meetings; organization.**—District advisory boards shall meet at any time and place within the district designated by the regional grazier or his authorized representative. At the first meeting of a board after an election, it shall organize by electing one of its members as chairman and such other officers from its membership as it may deem necessary. Meetings of a district advisory board shall be open to the public except that, with the approval of the representative of the Division of Grazing present, it may meet in executive session in considering applications for the granting of licenses or permits or any other business.

**PAR. i. Functions and duties of district advisors.**—District advisors may

advise or make recommendations on the following matters:

(1) The carrying capacity of the Federal range in the district.

(2) Applications, under the Federal Range Code, for grazing licenses or permits, either regular, free use, or nonuse, provided that no board shall make a recommendation on an application by any of its members. Such an application shall be acted on in the first instance by the regional grazier or district grazier.

(3) Proper rules for fair range practice.

(4) Allotments of range by classes of livestock or for community or individual use.

(5) Seasonal use of the Federal range or any part thereof.

(6) Applications for the construction or maintenance of improvements on the Federal range under section 4 of the act.

(7) Any recommendations made by local associations of stockmen in the district.

(8) Any other matters on which their opinion may be requested by the Secretary of the Interior.

#### SEC. 13. Local associations of stockmen.—

**PAR. a. Organization.**—Qualified applicants for grazing licenses or permits in any grazing district may organize a local association, or several associations, according to classes of livestock, or by community of interest or otherwise.

**PAR. b. Articles of incorporation, constitutions and bylaws.**—Such associations shall be organized as corporations "not-for-profit", if permissible under the laws of the State in which the grazing district, or the greater part thereof, is situated; otherwise, they may be organized as cooperative unincorporated associations. In either case the articles of incorporation, the charters, or the constitutions of such associations, together with the by-laws, shall be submitted to the Secretary of the Interior before the organization of the association shall be recognized by the Department of the Interior.

**PAR. c. Powers.**—Such local associations should be authorized to exercise the following powers:

(1) To lease, or otherwise acquire the control of State, county, privately owned, tax-default, or other lands within or near a district.

(2) To make contributions in cash, property, material or labor, toward the administration, protection and improvement of the Federal range lying within the district.

(3) To construct and maintain fences, wells, reservoirs and other improvements necessary to the care and management of the livestock grazed in the district, if and when authorized by the Secretary of the Interior.

(4) To act in an advisory capacity to the Secretary of the Interior in the administration of the Federal range lying within the district. All recommendations

made by the association to the Secretary shall be subject to the provisions of the Federal Range Code and shall include the right of a hearing before an examiner of the Division of Grazing on the necessity and propriety of any action recommended and an appeal to the Secretary from the examiner's findings of fact and decision.

(5) To recommend the amount, manner of apportionment, time and method of collection of assessments for strictly association purposes, as well as for the public purposes contemplated by the act.

(6) To enter into cooperative agreements with the Secretary of the Interior for any of the foregoing purposes or for any other purpose authorized by the act.

**PAR. d. Cooperative agreements for use of lands; obligation of all licensees and permittees to share cost.**—Whenever the carrying capacity of Federal range is increased by reason of the acquisition of control of any lands by the Division of Grazing through a cooperative agreement with a local association, any licensee or permittee benefiting thereby, whether a member of the association or not, shall pay to the association his proportionate share of the cost of the association lands, based on the number of livestock by which his license or permit is increased by reason of the administration of the association lands by the Division of Grazing, plus any authorized association assessments for other expenses. The regional grazier is authorized to refuse to issue a license or permit to any applicant or to cancel or refuse to renew the license or permit of any licensee or permittee to graze on any lands covered by such an agreement, whether public or association lands, and whether or not such applicant, licensee or permittee is a member of the association, if he fails or refuses to pay to the association any of the foregoing charges.

#### SEC. 14. Construction and maintenance of improvements on the Federal range.

**PAR. a. Statutory authorization.**—Section 4 of the act provides:

Fences, wells, reservoirs, and other improvements necessary to the care and management of the permitted livestock may be constructed on the public lands within such grazing districts under permit issued by the authority of the Secretary, or under such cooperative arrangement as the Secretary may approve. Permittees shall be required by the Secretary of the Interior to comply with the provisions of law of the State within which the grazing district is located with respect to the cost and maintenance of partition fences. No permit shall be issued which shall entitle the permittee to the use of such improvements constructed and owned by a prior occupant until the applicant has paid to such prior occupant the reasonable value of such improvements to be determined under rules and regulations of the Secretary of the Interior. The decision of the Secretary in such cases is to be final and conclusive.

**PAR. b. Applicants for permits and cooperative agreements; qualifications.**—An applicant for a permit or for a cooperative agreement or an arrangement to construct and maintain improvements of the character described in section 4 of the act, or to use and maintain improve-

ments of such character constructed and owned by a prior occupant, on the Federal range, if an individual, must be a citizen of the United States or must have declared his intention to become such. If an association, its members must possess like qualifications, and if either an association or a corporation, it must be authorized to do business in the State in which the lands upon which the improvements to be erected are situated.

**PAR. c. Applications; form and contents; filing.**—Applications for such permits, cooperative agreements or arrangements shall set forth the location of such improvements by legal subdivision of the public land survey, the necessity, use, cost and description of such improvements, item by item, shall designate the time and manner of their construction, the period of use, the method of operation, protection, repair, removal or other disposition, and shall include any other pertinent information. If an application concerns the use and maintenance of improvements constructed and owned by a prior occupant under permit issued by the authority of the Secretary, it shall include also an itemized showing of their reasonable value at the time of filing the application and either evidence that the applicant has paid this amount to the prior occupant and has obtained title to the improvements free of all encumbrances, or a clear and concise explanation of the reasons for a lack of such agreement between the applicant and the prior occupant. When necessary properly to explain the improvements and matters connected therewith, the application shall be accompanied by a sketch of the improvements with specifications and a map showing their location in the grazing district. All applications shall be made on forms provided by the Division of Grazing, with such modifications as may be necessary, and shall be filed in triplicate with the regional grazier, who will submit them to the advisory board for consideration and recommendation.

**PAR. d. Applications for construction of improvements; consideration; appeals.**—When an application concerning the construction of improvements entailing a cost of three hundred dollars or less in labor and material is filed, the regional grazier shall, after the recommendation of the advisory board, act on the application and such action shall be final unless the applicant appeals to the Director of Grazing within 15 days following receipt of notice. If the improvement entails a cost in excess of three hundred dollars in labor and materials, the regional grazier immediately will submit it, together with his own recommendation, and that of the advisory board, to the Director of Grazing for action. The decision of the Director of Grazing on any such application, irrespective of the cost involved, shall be final unless the applicant appeals to the Secretary of the Interior within 30 days. In the latter event, the decision of the Secretary shall be final.

**PAR. e. Applications for use of improvements owned by prior occupant; procedure upon failure to agree.**—An application to use and maintain improvements constructed and owned by a prior occupant, under permit issued by the authority of the Secretary, if accompanied by the evidence of ownership provided for in paragraph c of this section, shall be considered in the same manner as an application for the construction of improvements. Upon the filing of such an application showing that the applicant and the prior occupant have not agreed on the value of the improvements, the regional grazier will immediately, at the applicant's expense, cause the prior occupant to be served either personally or by registered mail with a notice of the filing of the application, together with copies of the application and any accompanying papers and an order to show cause within thirty days why the improvements should not be determined to be of the value alleged by the applicant. Upon such a showing or, if the prior occupant applies within thirty days from the date of service for a hearing, in the light of such evidence as the applicant and the prior occupant may desire to present in such hearing, the regional grazier will determine the present reasonable value of the improvements. Such determination shall be final unless an appeal is taken within 15 days to the Director of Grazing, whose decision in the matter likewise shall be final unless an appeal is taken within 30 days to the Secretary of the Interior. In the latter event, the decision of the Secretary shall be final. Upon the failure of the prior occupant to show cause or to apply within 30 days for a hearing, the reasonable value of the improvements will be determined by the regional grazier, provided that in the event of such default by the prior occupant the value determined shall not be less than the amount alleged by the applicant in his application and the decision of the regional grazier in such cases shall be final. In any case when a decision has become final, payment by the applicant to the prior occupant of the amount determined and a showing that the improvements are free of all encumbrances shall be a condition precedent to favorable action on the application.

**PAR. f. Approval of application.**—Upon the approval of an application concerning the construction or use and maintenance of any improvements on the Federal range by the issuance of a permit or the approval of a cooperative agreement or other arrangement, the applicant may construct the improvements or use the improvements constructed and owned by the prior occupant, as the case may be.

**Sec. 15. Special rules for grazing districts.**—Whenever it appears to a regional grazier that local conditions in any district in his region make necessary the application of a special rule on

any of the matters in this code in order better to achieve an administration consistent with the purposes of the act, he may recommend such a rule, supported by a factual showing of its necessity, to the Secretary of the Interior for approval.

**Sec. 16. Penal provision.**—By section 2 of the act any willful violation of the provisions of the act or of the rules and regulations thereunder (the Federal Range Code), after actual notice thereof, is punishable by a fine of not more than \$500.

F. R. CARPENTER,  
Director of Grazing.

Approved, June 22, 1938.

E. K. BURLEW,  
Acting Secretary of the  
Interior.

[F. R. Doc. 38-1817; Filed, June 25, 1938;  
10:00 a. m.]

#### UTAH GRAZING DISTRICT NO. 1

##### MODIFICATION

JUNE 17, 1938.

Under and pursuant to the provisions of the act of June 28, 1934 (48 Stat. 1269), as amended by the act of June 26, 1936 (49 Stat. 1976), Departmental order of April 8, 1935, establishing Utah Grazing District No. 1 is hereby revoked as far as it affects the following-described land:

##### SALT LAKE MERIDIAN

T. 11 N., R. 19 W., sec. 21, lots 1 and 4, W $\frac{1}{4}$  NE $\frac{1}{4}$ , NE $\frac{1}{4}$  NW $\frac{1}{4}$ , SE $\frac{1}{4}$  SW $\frac{1}{4}$ ; sec. 22, SW $\frac{1}{4}$  SW $\frac{1}{4}$ ; sec. 28, lot 1, NE $\frac{1}{4}$  NW $\frac{1}{4}$ , N $\frac{1}{2}$  NE $\frac{1}{4}$ .

E. K. BURLEW,  
Acting Secretary of the Interior.

[F. R. Doc. 38-1819; Filed, June 25, 1938;  
10:02 a. m.]

#### GENERAL LAND OFFICE

##### STOCK DRIVEWAY WITHDRAWAL NO. 11, MONTANA NO. 1, MODIFIED

JUNE 15, 1938.

It appearing that Stock Driveway Withdrawal No. 11, Montana No. 1, should be modified by adding certain lands thereto and by releasing certain lands therefrom, it is ordered, under and pursuant to the provisions of section 7 of the act of June 28, 1934, 48 Stat. 1269, as amended by the act of June 26, 1936, 49 Stat. 1976, and section ten of the act of December 29, 1916, 39 Stat. 862, as amended by the act of January 29, 1929, 45 Stat. 1144, that the following-described public lands, excepting any mineral deposits therein, be, and they are hereby, withdrawn from all disposal under the public-land laws and reserved for the use of the general public as an addition to such driveway reservation, subject to valid existing rights and to certain power transmission line

and public water reservations affecting a portion of the land:

##### PRINCIPAL MERIDIAN

T. 6 S., R. 10 W., sec. 34, NE $\frac{1}{4}$  SE $\frac{1}{4}$ , SW $\frac{1}{4}$  SE $\frac{1}{4}$ , sec. 35, N $\frac{1}{2}$  SW $\frac{1}{4}$ ; T. 7 S., R. 10 W., sec. 3, W $\frac{1}{4}$  NE $\frac{1}{4}$ , sec. 7, S $\frac{1}{4}$  S $\frac{1}{2}$ , sec. 8, SE $\frac{1}{4}$  SW $\frac{1}{4}$ , S $\frac{1}{2}$  SE $\frac{1}{4}$ , sec. 9, SW $\frac{1}{4}$  SW $\frac{1}{4}$ , sec. 10, W $\frac{1}{4}$  E $\frac{1}{4}$ , sec. 15, NW $\frac{1}{4}$  NE $\frac{1}{4}$ , N $\frac{1}{2}$  NW $\frac{1}{4}$ , sec. 17, N $\frac{1}{2}$  N $\frac{1}{2}$ , sec. 18, N $\frac{1}{4}$  N $\frac{1}{2}$ .

T. 7 S., R. 11 W., sec. 11, S $\frac{1}{4}$  S $\frac{1}{2}$ , sec. 12, S $\frac{1}{4}$  S $\frac{1}{2}$ , sec. 13, N $\frac{1}{2}$  N $\frac{1}{2}$ , sec. 14, N $\frac{1}{4}$  N $\frac{1}{2}$ , aggregating 1,784.22 acres.

Any mineral deposits in the lands shall be subject to location and entry only in the manner prescribed by the Secretary of the Interior in accordance with the provisions of the aforesaid act of January 29, 1929, and existing regulations.

And departmental orders of withdrawal of January 19 and February 1, 1921, for driveway purposes are hereby revoked in so far as they affect the following-described land:

T. 7 S., R. 10 W., sec. 3, N $\frac{1}{2}$  SW $\frac{1}{4}$ , NE $\frac{1}{4}$  SE $\frac{1}{4}$ , sec. 4, N $\frac{1}{4}$  SE $\frac{1}{4}$ , aggregating 200 acres.

OSCAR L. CHAPMAN,  
Assistant Secretary of the Interior.

[F. R. Doc. 38-1820; Filed, June 25, 1938;  
10:03 a. m.]

#### TITLE 45—SECURITIES AND EXCHANGES

##### SECURITIES AND EXCHANGE COMMISSION

##### PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

##### CORRECTION OF RULE U-9A2-3 AND THE INSTRUCTIONS TO FORM U-12D-2

The Securities and Exchange Commission announces two minor corrections of clerical errors in Rule U-9A2-3<sup>1</sup> and in the instructions accompanying Form U-12D-2 which is used by a registered holding company making application for approval of a sale of utility assets. The text of the Commission's action follows:

**Rule U-9A2-3 (sec. 15.U-9A2-3).**—In the first clause of paragraph (a) of Rule U-9A2-3 (sec. 15.U-9A2-3) the "(d)" should read "(c)" so that the first clause of this paragraph (a) will read, "Subject to the provisions of paragraph (c) of this rule."

Rule U-9A2-3 (sec. 15.U-9A2-3) appears in Holding Company Act Release No. 929 and in the General Rules and Regulations under the Public Utility Holding Company Act of 1935, as amended May 15, 1938, at page 902 and the correction here made should be noted in both places.

<sup>1</sup> F. R. 3276 (D).

*Instructions to Form U-12D-2 (sec. 17.U-12D-2).*—Item 1 in the instructions to Form U-12D-2 (sec. 17.U-12D-2) is corrected by striking out the words "or for the sale of utility assets by a subsidiary of a registered holding company to another company in the same holding company system," so that Item 1 to the instructions will read, "This form is to be used for applications for the approval of the sale of utility assets by registered holding companies." The instructions to form U-12D-2 (sec. 17.U-12D-2) are attached to the Form U-12D-2 and this correction should be noted thereon in the instructions.

[SEAL] ORVAL L. DUBOIS,  
Recording Secretary.

[F. R. Doc. 38-1837; Filed, June 27, 1938;  
12:45 p. m.]

#### PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

#### SALE OF PUBLIC UTILITY SECURITIES AND UTILITY ASSETS BY REGISTERED HOLDING COMPANIES

##### *Amendment of Rule U-12D-1*

Acting pursuant to the authority conferred upon it by the Public Utility Holding Company Act of 1935 and particularly by Sections 12 (d), 20 (a) and 27 (a) thereof [C. 687, sec. 12, 49 Stat. 823; 15 U. S. C., Sup. III, 79]: c. 687, sec. 20, 49 Stat. 833; 15 U. S. C. Sup. III, 79t: c. 687, sec. 27, 49 Stat. 836; 15 U. S. C., Sup. III, 79z-11], the Securities and Exchange Commission, finding it necessary and appropriate in the public interest and for the protection of investors and consumers, hereby amends Rule U-12D-1 [sec. 15.U-12D-1] by adding to that rule a paragraph (f) to read as follows:

(f) Paragraph (a) of this rule shall not apply to the sale of any securities or any utility assets to a federal or state government or to any subdivision or instrumentality thereof or, if the sale of said securities or utility assets to a federal or state government or any subdivision or instrumentality thereof is conditioned upon the consummation of a sale of utility assets to any other person, to the sale of such utility assets to such other person *provided that* (1) the consideration paid by the federal or state government or the subdivision or instrumentality thereof is at least twice the consideration paid by such other person, and (2) the utility assets to be sold to such other person are physically interconnected with facilities already owned by such other person.

The foregoing action shall be effective as of June 25, 1938.

By the Commission.

[SEAL] ORVAL L. DUBOIS,  
Recording Secretary.

[F. R. Doc. 38-1838; Filed, June 27, 1938;  
12:45 p. m.]

#### Notices

#### TREASURY DEPARTMENT.

##### Bureau of Customs.

[T. D. 49631]

CERTAIN AIRPORTS REDESIGNATED AS AIRPORTS OF ENTRY FOR A PERIOD OF ONE YEAR

JUNE 22, 1938.

To Collectors of Customs and Others Concerned:

Under the authority of section 7 (b) of the Air Commerce Act of 1926 (U. S. C. title 49, sec. 177 (b)), the following-named airports are hereby redesignated as airports of entry for civil aircraft and merchandise carried thereon arriving from places outside the United States, as defined in section 9 (b) of the said act (U. S. C., title 49, sec. 179 (b)), for a period of one year from the dates shown opposite their respective names:

Name	Location	Date of re-designation
Bangor Municipal Airport	Bangor, Me.	June 26, 1938
Crosby Municipal Airport	Crosby, N. Dak.	June 28, 1938
Burlington Municipal Airport	Burlington, Vt.	June 29, 1938

[SEAL] STEPHEN B. GIBBONS,  
Acting Secretary of the Treasury.

[F. R. Doc. 38-1821; Filed, June 25,  
1938; 11:01 a. m.]

#### FEDERAL POWER COMMISSION.

[Docket No. IT-5521]

#### APPLICATION OF TENNESSEE PUBLIC SERVICE COMPANY AND APPALACHIAN ELECTRIC POWER COMPANY

##### ORDER SETTING DATE OF HEARING

JUNE 24, 1938.

Commissioners: Clyde L. Seavey, Acting Chairman; Basil Manly, John W. Scott. Claude L. Draper not participating.

Upon joint application filed June 24, 1938, pursuant to Section 203 (a) of the Federal Power Act, by Tennessee Public Service Company, a corporation organized under the laws of the State of Maine, having its principal business office in Knoxville, Tennessee, and by Appalachian Electric Power Company, a corporation organized under the laws of the Commonwealth of Virginia, having its principal business offices in Roanoke, Virginia, Charleston, West Virginia, and Kingsport, Tennessee, for an order authorizing the disposition and sale by Tennessee Public Service Company of all of the electrical facilities (exclusive of all transportation properties) of said company to the City of Knoxville, Tennessee, the Tennessee Valley Authority, and the Appalachian Electric Power Company, all

as set forth in said joint application and the exhibits attached thereto;

The Commission orders that: A public hearing on said application be held on July 11, 1938, at 10 a. m. in the hearing room of the Commission, Hurley-Wright Building, 1800 Pennsylvania Avenue, Northwest, Washington, D. C.

By the Commission.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 38-1825; Filed, June 27, 1938;  
9:51 a. m.]

#### FEDERAL TRADE COMMISSION.

##### United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 2979]

#### IN THE MATTER OF ASSOCIATED LABORATORIES, INC., NEW YORK, NEW YORK ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A. Section 41),

*It is ordered*, That Edward E. Reardon, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Hearing Room 332, Federal Trade Commission Building, Sixth St. and Constitution Ave., N. W., Washington, D. C.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1802; Filed, June 24, 1938;  
1:39 p. m.]

##### United States of America—Before Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 21st day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.  
[Docket No. 3055]

IN THE MATTER OF G. H. MOSSY, INDIVIDUALLY AND AS PRESIDENT, VAN-TAGE MEDICINE COMPANY, INC.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered* That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Thursday, July 7, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1803; Filed, June 24, 1938;  
1:39 p. m.]

United States of America—Before  
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3086]

IN THE MATTER OF M. J. & H. J. MEYER COMPANY, INC., A CORPORATION

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered*, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Wednesday, June 29, 1938, at nine o'clock

in the forenoon of that day (eastern standard time), in Room 500 at 45 Broadway, New York, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1804; Filed, June 24, 1938;  
1:40 p. m.]

United States of America—Before  
Federal Trade Commission

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3213]

IN THE MATTER OF THE PARADISE COMPANY, A CORPORATION, AND ALBERT L. BISSON, SYLVAN B. HEININGER, MARTHA A. BOEING, LETA M. CLANTON AND G. G. GRANT.

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY.

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered*, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Wednesday, June 29, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1805; Filed, June 24, 1938;  
1:40 p. m.]

United States of America—Before  
Federal Trade Commission \*

At a regular session of the Federal Trade Commission, held at its office in

the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3221]

IN THE MATTER OF UNITED BUYERS CORPORATION; ARTHUR E. KOENIGER, INDIVIDUALLY AND AS PRESIDENT AND AS ONE OF THE DIRECTORS OF UNITED BUYERS CORPORATION; ELI P. GALE, INDIVIDUALLY AND AS VICE-PRESIDENT IN CHARGE OF BUYING AND AS ONE OF THE DIRECTORS OF UNITED BUYERS CORPORATION; W. WENDELL CALDWELL, INDIVIDUALLY AND AS VICE-PRESIDENT IN CHARGE OF MERCHANDISING AND AS ONE OF THE DIRECTORS OF UNITED BUYERS CORPORATION; HELEN M. DRISCOLL, INDIVIDUALLY AND AS SECRETARY OF UNITED BUYERS CORPORATION; STELLA E. NORDLUND, INDIVIDUALLY AND AS TREASURER OF UNITED BUYERS CORPORATION; PAUL E. PAINTER, MILTON E. ROLFSMEYER, ALFRED M. COPPS, ELDON B. SMITH, AND OLIVER J. LECKLIDER, AND EACH OF THEM, INDIVIDUALLY AND AS DIRECTORS OF UNITED BUYERS CORPORATION; H. P. LAU COMPANY, A CORPORATION; BLUFFTON GROCERY COMPANY, A CORPORATION; LIMA-KENTON GROCERY COMPANY, A CORPORATION; S. ZOLLINGER COMPANY, A CORPORATION; WILLIAM EDWARDS COMPANY, A CORPORATION; COPPS COMPANY, A CORPORATION; ALLISON-BEDFORD COMPANY, A CORPORATION; ANGELUS CAMPFIRE COMPANY, A CORPORATION; BLUE SEAL PRODUCTS COMPANY, A CORPORATION; BORDO PRODUCTS COMPANY, A CORPORATION; CHAMPION CHEMICAL WORKS, A CORPORATION; CUPPLES COMPANY, A CORPORATION; DEAN MILK COMPANY, A CORPORATION; J. B. INDERRIEDEN COMPANY, A CORPORATION, RESPONDENTS

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under Acts of Congress (38 Stat. 717; 15 U. S. C. A., Section 41), and (49 Stat. 1526, U. S. C. A., Section 13, as amended),

*It is ordered*, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Wednesday, July 6, 1938, at nine o'clock in the forenoon of that day (central standard time), Room 1123, New Post Office Building, 433 West Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and receive evidence on behalf of the respondent. The examiner

## FEDERAL REGISTER, Tuesday, June 28, 1938

will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1806; Filed, June 24, 1938;  
1:41 p. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3291]

**IN THE MATTER OF PROSTEX COMPANY**  
**ORDER APPOINTING EXAMINER AND FIXING  
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered*, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Monday, July 18, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 313, Federal Building, Joplin, Mo.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1807; Filed, June 24, 1938;  
1:41 p. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3292]

**IN THE MATTER OF R. E. LEADERBRAND AND  
GLADYS M. LEADERBRAND, PARTNERS,  
TRADING AS F. B. PRODUCTS COMPANY  
AND F. B. DRUG COMPANY**

**ORDER APPOINTING EXAMINER AND FIXING  
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered*, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 310, New Federal Building, Columbus, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1808; Filed, June 24, 1938;  
1:42 p. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3297]

**IN THE MATTER OF COHEN BROTHERS CORPORATION, A CORPORATION**

**ORDER APPOINTING EXAMINER AND FIXING  
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered*, That W. W. Sheppard, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Friday, July 1, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 500 at 45 Broadway, New York, N. Y.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of

the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1809; Filed, June 24, 1938;  
1:42 p. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3303]

**IN THE MATTER OF HYGIENIC CORPORATION  
OF AMERICA, HYGIENIC COMPANY OF  
AMERICA, MERRILL-SAUNDERS COMPANY,  
LTD., CORPORATIONS, HAROLD L. DE BAR,  
INDIVIDUALLY AND TRADING AS AMERICAN  
HEALTH ASSOCIATION OF WASHINGTON,  
D. C., WOMEN'S ADVISORY BUREAU,  
WOMEN'S CO-OPERATIVE SERVICE, PRO-  
TEX-U-HYGIENIC SERVICE, AMERICAN  
BUREAU OF HYGIENE, SURETE LABORA-  
TORIES**

**ORDER APPOINTING EXAMINER AND FIXING  
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered*, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 310, New Federal Building, Columbus, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1810; Filed, June 24, 1938;  
1:42 p. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3304]

**IN THE MATTER OF NATIONAL TRAINING INSTITUTE, INC., A CORPORATION, AND JOHN C. FELBER, ARTHUR W. GROTH, AND LOUISE D. FELBER, INDIVIDUALLY AND AS OFFICERS OF SAID CORPORATION**

**ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

*It is ordered*, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law:

*It is further ordered*, That the taking of testimony in this proceeding begin on Friday, July 1, 1938, at nine o'clock in the forenoon of that day (central standard time) in Room 1123, New Post Office Building, 433 W. Van Buren Street, Chicago, Illinois.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1811; Filed, June 24, 1938;  
1:43 p. m.]

**United States of America—Before  
Federal Trade Commission**

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3331]

**IN THE MATTER OF W. R. YOUNG, AN INDIVIDUAL, DOING BUSINESS UNDER THE NAME AND STYLE OF NATIONAL EMPLOYEES TRAINING SERVICE**

**ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

No. 125—4

*It is ordered*, That William C. Reeves, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Tuesday, July 5, 1938, at ten o'clock in the forenoon of that day (eastern standard time), in Room 921, Federal Building, Detroit, Mich.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report. By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1812; Filed, June 24, 1938;  
1:43 p. m.]

**United States of America—Before  
Federal Trade Commission**

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3333]

**IN THE MATTER OF WM. F. CRADDICK, INDIVIDUALLY AND TRADING AS N-URG-IZER, VIT-O-NET, AND ELECTRONET**

**ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

*It is ordered*, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Monday, June 27, 1938, at nine o'clock in the forenoon of that day (eastern standard time), in Room 437, Post Office Building, Pittsburgh, Pa.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1826; Filed, June 27, 1938;  
9:56 a. m.]

**United States of America—Before  
Federal Trade Commission**

Commissioners: Garland S. Ferguson, Chairman, Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3361]

**IN THE MATTER OF FORSON LABORATORIES**

**ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

*It is ordered*, That Arthur F. Thomas, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Wednesday, June 29, 1938, at ten o'clock in the forenoon of that day (eastern standard time) in Room 424, Federal Building, Cleveland, Ohio.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1827; Filed, June 27, 1938;  
9:56 a. m.]

**United States of America—Before  
Federal Trade Commission**

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3384]

**IN THE MATTER OF RAY THOMSON, TRADING AS T. A. REYNOLDS & COMPANY, AND AS THOMAS REY COMPANY, INDIVIDUALLY AND AS PARTNER, TRADING AS JEAN LOWE COSMETIC COMPANY, AND GLENN BROWN, INDIVIDUALLY AND AS PARTNER, TRADING AS JEAN LOWE COSMETIC COMPANY**

**ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

## FEDERAL REGISTER, Tuesday, June 28, 1938

*It is ordered.* That Edward J. Hornbrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered.* That the taking of testimony in this proceeding begin on Monday, July 11, 1938, at ten o'clock in the forenoon of that day (central standard time), in the Civil Service Room, Post Office, Olney, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondents. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1828; Filed, June 27, 1938;  
9:56 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 16th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 338]

**IN THE MATTER OF VACU-MATIC CARBURETOR COMPANY**

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered.* That Edward J. Hornbrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered.* That the taking of testimony in this proceeding begin on Thursday, June 30, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 316, Federal Building, Milwaukee, Wis.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1829; Filed, June 27, 1938;  
9:57 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3389]

**IN THE MATTER OF HALL & RUCKEL, INC., A CORPORATION**

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A. Section 41),

*It is ordered.* That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered.* That the taking of testimony in this proceeding begin on Wednesday, June 29, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1830; Filed, June 27, 1938;  
9:57 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3402]

**IN THE MATTER OF AL DUNLAP, TRADING AS THE DETECTIVE PUBLISHING COMPANY**

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered.* That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered.* That the taking of testimony in this proceeding begin on Tuesday, June 28, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1831; Filed, June 27, 1938;  
9:57 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3404]

**IN THE MATTER OF O. K. TAILORING COMPANY, A CORPORATION**

ORDER APPOINTING EXAMINER AND FIXING TIME AND PLACE FOR TAKING TESTIMONY

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41),

*It is ordered.* That Robert S. Hall, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered.* That the taking of testimony in this proceeding begin on Thursday, June 30, 1938, at nine o'clock in the forenoon of that day (central standard time), in Room 1123, New Post Office Building, Chicago, Ill.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1832; Filed, June 27, 1938;  
9:58 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3408]

**IN THE MATTER OF CRETE MILLS  
ORDER APPOINTING EXAMINER AND FIXING  
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

*It is ordered*, That Edward J. Hornbrook, an examiner of this Commission, be and he hereby is designated and appointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Friday, July 15, 1938, at ten o'clock in the forenoon of that day (central standard time), in Room 334, Post Office Building, Lincoln, Nebr.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1833; Filed, June 27, 1938;  
9:58 a. m.]

*United States of America—Before  
Federal Trade Commission*

At a regular session of the Federal Trade Commission, held at its office in the City of Washington, D. C., on the 17th day of June, A. D. 1938.

Commissioners: Garland S. Ferguson, Chairman; Charles H. March, Ewin L. Davis, William A. Ayres, Robert E. Freer.

[Docket No. 3442]

**IN THE MATTER OF HYMAN KADETSKY,  
TRADING AS ACME MERCHANDISE COM-  
PANY AND AS LIQUIDATION MERCHANDISE  
COMPANY**

**ORDER APPOINTING EXAMINER AND FIXING  
TIME AND PLACE FOR TAKING TESTIMONY**

This matter being at issue and ready for the taking of testimony, and pursuant to authority vested in the Federal Trade Commission, under an Act of Congress (38 Stat. 717; 15 U. S. C. A., Section 41).

*It is ordered*, That Edward J. Hornbrook, an examiner of this Commission, be and he hereby is designated and ap-

pointed to take testimony and receive evidence in this proceeding and to perform all other duties authorized by law;

*It is further ordered*, That the taking of testimony in this proceeding begin on Saturday, July 2, 1938, at ten o'clock in the forenoon of that day (central standard time) in Room 316, Federal Building, Milwaukee, Wisconsin.

Upon completion of testimony for the Federal Trade Commission, the examiner is directed to proceed immediately to take testimony and evidence on behalf of the respondent. The examiner will then close the case and make his report.

By the Commission.

[SEAL] OTIS B. JOHNSON,  
Secretary.

[F. R. Doc. 38-1834; Filed, June 27, 1938;  
9:58 a. m.]

**SECURITIES AND EXCHANGE COM-  
MISSION**

*United States of America—Before the  
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 27th day of June, A. D. 1938.

[File No. 43-131]

**IN THE MATTER OF IOWA PUBLIC SERVICE  
COMPANY**

**NOTICE OF AND ORDER FOR HEARING**

A declaration pursuant to section 7 of the Public Utility Holding Company Act of 1935, having been duly filed with this Commission by the above-named party;

*It is ordered*, That a hearing on such matter be held on July 14, 1938, at 10 o'clock in the forenoon of that day, at the Securities and Exchange Building, 1778 Pennsylvania Avenue, NW, Washington, D. C. On such day the hearing-room clerk in Room 1102 will advise as to the room where such hearing will be held. At such hearing, if in respect of any declaration, cause shall be shown why such declaration shall become effective.

*It is further ordered*, That Richard Townsend or any other officer or officers of the Commission designated by it for that purpose shall preside at the hearings in such matter. The officer so designated to preside at any such hearing is hereby authorized to exercise all powers granted to the Commission under section 18 (c) of said Act and to continue or postpone said hearing from time to time or to a date thereafter to be fixed by such presiding officer.

Notice of such hearing is hereby given to such declarant or applicant and to any other person whose participation in such proceeding may be in the public interest or for the protection of investors or consumers. It is requested that any person desiring to be heard or to be admitted as a party to such proceeding shall file a notice to that effect with the Commission on or before July 9, 1938.

The matter concerned herewith is in regard to the declaration of Iowa Public Service Company, a subsidiary of Sioux City Gas and Electric Company, which is in turn a subsidiary of Penn Western Gas & Electric Company, a registered holding company, regarding the issue and sale by declarant, at private sale, of \$300,000 principal amount of its First Mortgage Gold Bonds 5% Series due 1957, at 101½% of the principal amount thereof plus accrued interest, to John Hancock Mutual Life Insurance Company and to Investors Syndicate, such purchasers to acquire, respectively, \$250,000 and \$50,000 principal amount of such bonds. Of the proceeds of such sale, approximately \$200,000 is to be expended by the declarant to finance new construction under a proposed plan of rural electrification and \$85,000 is to be deposited with the Trustee for such bonds to be withdrawn by the declarant, in the future, to reimburse itself for expenditures made for fundable property additions.

By the Commission.

[SEAL] FRANCIS P. BRASSOR,  
Secretary.

[F. R. Doc. 38-1835; Filed, June 27, 1938;  
12:45 p. m.]

*United States of America—Before the  
Securities and Exchange Commission*

At a regular session of the Securities and Exchange Commission held at its office in the City of Washington, D. C., on the 25th day of June, A. D. 1938.

[File No. 43-127]

**IN THE MATTER OF MASSACHUSETTS  
UTILITIES ASSOCIATES**

**ORDER DESIGNATING NEW TRIAL EXAMINER**

Massachusetts Utilities Associates having duly filed a declaration with this Commission, pursuant to Section 7 of the Public Utility Holding Company Act of 1935; the Commission by order dated June 10, 1938, having set the matter down for hearing on June 28, 1938, at ten o'clock in the forenoon of that day, at the Securities and Exchange Commission Building, Washington, D. C., and the Trial Examiner designated to preside at said hearing now being engaged in another matter and unable to preside at said hearing.

*It is ordered*, That Robert P. Reeder, an officer of the Commission, be and hereby is designated to preside at such hearing in the place and stead of and with the same powers and duties as the Trial Examiner heretofore designated to preside at such hearing.

By the Commission.

[SEAL] ORVAL L. DUBois,  
Recording Secretary.

[F. R. Doc. 38-1836; Filed, June 27, 1938;  
12:45 p. m.]

